U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35259995

Date: DEC. 16, 2024

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a chief executive officer, seeks employment-based second preference (EB-2) classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal. The Petitioner filed a combined motion to reopen and reconsider, which we dismissed because the Petitioner had not met the requirements of a motion to reopen or reconsider. The matter is now before us on a motion to reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner aims to address and clarify key aspects of his case, particularly that his proposed endeavor has substantial merit and national importance. The Petitioner contends that his endeavor has the potential to significantly impact the national economy and benefit national security. In support of his motion, the Petitioner submits a brief along with previously submitted documents, arguing that his evidence demonstrates his proposed endeavor's national importance. However, as we mentioned above, a motion's scope is limited to "the prior decision" and "the latest decision in the proceeding." *Id*. In other words, today's review is limited to our July 2024 decision dismissing the first motion. The Petitioner's submission establishes no error in that decision, as he merely reasserts arguments we have already considered and found unpersuasive in both of our previous decisions.[1] *See*

[1] We will not repeat here the conclusions reached in our prior decisions.

e.g., Matter of O-S-G-, 24 I&N Dec. 56, 58 (BIA 2006) ("a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision"). Moreover, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Accordingly, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4). The Petitioner's appeal therefore remains dismissed, and his underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.