U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41184638

Date: FEB. 12, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner, chief executive officer for an agribusiness company, seeks employment-based second preference (EB-2) immigrant 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 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

Service Center Operations (SCOPS) 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 have dismissed a subsequent appeal, a combined motion to reopen and reconsider, and a motion to reconsider. The matter is now before us on another 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 to reconsider.

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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In our appeal decision, we determined, in relevant part, that the Petitioner had not established the national importance of his proposed endeavor. In his combined motion to reopen and reconsider, the Petitioner submitted a new business plan. We dismissed the combined motion and explained, with respect to the motion to reopen, that the Petitioner had not submitted new facts or evidence in support of the motion. In our prior decision, we acknowledged that we did not discuss the Petitioner's new business plan in our decision dismissing the combined motion. However, we concluded, in relevant part, that we did not err in dismissing the motion to reopen because the Petitioner had not provided specific details about how the updated business plan amounts to "new facts" and established the national importance of his proposed endeavor. *See* 8 C.F.R. § 103.5(a)(2) (A motion to reopen must

state new facts and be supported by documentary evidence.); *see also Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

In the current motion to reconsider, the Petitioner does not demonstrate how his business plan supplements the record to establish the national importance of his proposed endeavor. Rather, he argues our decision was arbitrary and capricious because it did not substantively review his business plan, which "elaborated upon elements intrinsic to the proposed endeavor" and "is anchored in data-backed, evidence-based advancements that directly address urgent national needs in agricultural education, digital workforce development, and [internet of things] enabled innovation."[1] However, as we discussed in our appeal decision, the Petitioner's original business plan contained uncorroborated projections and assertions and the record as a whole did not establish with specific, probative information how the Petitioner's proposed endeavor would have broader implications beyond his clients' growth to demonstrate its national importance. The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *See Matter of Chawathe*, 25 I&N Dec. at 375 (providing we consider not only the quantity, but also the quality, including relevance, probative value, and credibility, of the evidence in determining whether a petitioner has met the burden under the preponderance standard). Here, the Petitioner does not explain how his updated business plan, which also is uncorroborated by evidence in the record, presents new facts demonstrating the broader implications of his proposed endeavor, that it would have global implications within his field or would have substantial positive economic effects, particularly in an economically depressed area, to be understood to have national importance. As a result, the Petitioner has not demonstrated that we erred as a matter of law or policy in our prior determination.

The Petitioner's remaining contentions in his current motion, arguing for example that his proposed endeavor addresses documented digital skill gaps in the agricultural workforce, that his initiatives will trigger a cascade of benefits for small family farms, and his tailored educational programs and consulting services will address the challenges faced by agribusiness, have already been considered in our previous decisions. *See, 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"). We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.

NOTICE: Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.

[1] The Petitioner then cites to a line of cases discussing when an agency rule is arbitrary and capricious, which is not relevant to our analysis here.