U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36469748

Date: FEB. 13, 2025

Motion on Administrative Appeals Office Decision

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

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

The Director of the Texas Service Center denied the petition, concluding the Petitioner had not established 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 matter is now before us on combined motions to reopen and 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 reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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). The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 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.

On combined motion, the Petitioner submits only a brief and a copy of our prior decision, despite his assertion that he "respectfully resubmits the evidence previously provided . . . as it may not have been fully addressed in the earlier review." Specifically, he claims that a letter from the Small Business Administration affirmed that his "knowledge and consulting services are directly relevant to the U.S. economy." Notably, no such letter was filed with the motion nor was one included in the record below. Further, the Petitioner's brief does not explain how the claimed letter establishes the national importance of his proposed endeavor or demonstrates that we erred as a matter of law or policy in our prior decision.

The Petitioner also highlights that there is an ongoing national issue of blood product shortages in the U.S., which directly relates to his proposed business plan. However, while the business plan discusses providing consulting services in the area of patient blood management, in determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." Id. at 889. Further, we assessed the Petitioner's health consulting in our prior decision and determined he had not demonstrated his proposed endeavor would impact his field or have substantial positive economic effects at a level of national importance.

Therefore, the Petitioner has not presented new facts that overcome the basis for our prior dismissal and has not met the requirements for reopening under 8 C.F.R. § 103.5(a)(2). The Petitioner also has not established that we erred as a matter of law or policy in our prior decision or that the dismissal was incorrect based on the evidence in the record of proceedings at the time. Accordingly, he has not satisfied the requirements for a motion to reconsider. See 8 C.F.R. § 103.5(a)(3).

Consequently, we have no basis for reopening or reconsideration of our decision, and the combined motions will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed