U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36149701

Date: FEB. 13, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a barber and barber instructor and entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability, 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).

The Director of the Texas Service Center denied the petition. The Director concluded that the record did not demonstrate the Petitioner merits a discretionary waiver of the job offer requirement in the national interest. We dismissed the appeal and subsequent combined motions to reopen and reconsider. The matter is now before us on a second 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). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

Upon review of the new motion documents, we find that the Petitioner has not presented new facts that overcomes our prior decision. The Petitioner asserts that these new facts establish eligibility for the underlying EB-2 classification as an individual of exceptional ability in the sciences, arts, or business. The Petitioner submits documentation to evidence that the institutions that awarded the Petitioner his certificates are learning institutions. The Petitioner submits an Instagram page of [redacted] that states it is the "1st school of classical barbershop in Brazil." The Petitioner also submits the website pages from [redacted] that describes that company. However, the Instagram page and personal website that are set up by the companies are not sufficient evidence to establish that these organizations are a "college, university, school, or other institution of learning" or that the certificates issued by them are "an official academic record."

The Petitioner also submits new documentation in support of the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(B). The new document is a letter from the director of [redacted] the accounting advisory company for the Petitioner's business in Brazil. The letter confirms that the Petitioner owns his own company and worked in the position of barber manager from May 26, 2015, to November 15, 2021. However, this letter does not satisfy this criterion since it does not show that the Petitioner has at least ten years of full-time experience in the occupation for which is being sought.

Further on motion, the Petitioner submits two articles to support his contention that his proposed endeavor will be nationally important. But his brief does not provide sufficient analysis of how these articles provide new facts such that they have the potential to change our outcome.

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.

As noted, our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). In dismissing the appeal and subsequent combined motions to reopen and reconsider, we discussed the submitted evidence and explained why it was insufficient to establish the Petitioner's eligibility for a national interest waiver. On motion, the Petitioner asserts that *Matter of Dhanasar,* 26 I&N Dec. 884, 889 (AAO 2016) provides the framework for adjudicating national interest waiver petitions and the "AAO has not implemented the right policy." However, the Petitioner does not identify how we did not implement the right policy in our decision.

The Petitioner has not established proper grounds for reconsideration. Our prior decision properly analyzed the Petitioner's assertions. The Petitioner cannot meet the requirements of a motion to reconsider by broadly disagreeing with our conclusions; the motion must demonstrate how we erred as a matter of law or policy. *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").

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. On motion to reconsider, 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. Therefore, the motion 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.