U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36635208

Date: FEB. 19, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner 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).

The Director of the Texas Service Center denied the petition, concluding 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 motion to reconsider. The matter is now before us on a second 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). 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.

On motion, the Petitioner submits a brief and contests the correctness of the Director's decision since it "rests on erroneous determination and without a proper analysis." The Petitioner requests that the present petition be approved or remanded to the Director for a thorough review of the evidence. The Petitioner further states that we incorrectly issued a decision engaging in our own "fact-specific analysis, improperly weighing the evidence to conclude that the proposed endeavor does not have national importance."

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). The motion focuses on the Director's decision and our appeal and reiterates a broad claim that full consideration was not given to the evidence of record. However, the

Petitioner's arguments related to the Director's decision and our dismissal of the appeal do not constitute the latest decision in the proceeding. The Petitioner's additional contentions on current motion reargue facts and issues we have already 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.

The Petitioner has not established proper grounds for reconsideration since he has not identified our immediate prior decision was based on an incorrect application of law or policy. *See* 8 C.F.R. § 103.5(a)(3). In dismissing the immediate prior motion to reconsider, we determined the Petitioner did not provide a cogent argument as to how we misapplied the law or USCIS policy in the prior decision, noting that decision analyzed the evidence and arguments with a correct conclusion.

Accordingly, although we acknowledge that the Petitioner submits a brief, we determine that the Petitioner does not directly address the conclusions we reached in our immediate prior decision or provide reasons for reconsidering of those conclusions. In this matter, the Petitioner has not overcome our prior decision or shown proper cause to reconsider this matter.

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 reconsider is dismissed.