U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 36897795

Date: FEB. 21, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a chief executive officer (CEO), seeks employment-based second preference (EB-2) classification as a member of the professions holding an advanced degree and/or an individual of exceptional ability, 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 Nebraska Service Center denied the petition, concluding that although the Petitioner qualified for classification as a member of the professions holding an advanced degree, he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed the Petitioner's appeal because he did not establish the proposed endeavor's national importance. The Petitioner's subsequent combined motions to reopen and reconsider were rejected. 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 motions.

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).

On motion, the Petitioner submits a brief, a business plan, and recommendation letters. Through his brief and supporting documents, the Petitioner highlights the significant of his proposed endeavor and asserts that it will have a substantial economic impact. The Petitioner claims that his endeavor has the potential to generate millions of dollars for economically disadvantaged areas. The Petitioner also emphasizes his innovations in the field of artificial intelligence and customer service and states that his technology will benefit both companies and customers while also aiding in fraud prevention and detection. As noted above, 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). Therefore, we will only consider new evidence to the extent that it pertains to our latest decision dismissing the appeal. Here, the Petitioner has not submitted any evidence or arguments that could be construed as "new facts" that were previously unavailable or undiscoverable to establish that we erred in dismissing his appeal.

Similarly, in our appellate decision, although we reserved our discussion of the second and third prongs, we explained why the Petitioner failed to meet the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). We determined the Petitioner had not sufficiently demonstrated that his specific endeavor would have broader implications for his field, the U.S. economy, or societal welfare. Our focus in considering national importance is not on the industry itself; instead, we focus on "the specific endeavor that the foreign national proposed to undertake." *Id.* at 889. In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. *Id.* In *Dhanasar*, we further noted that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field." *Id.* We also stated that "[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects." *Id.* at 890. As noted by the Director, and affirmed in our prior decision, the record does not show that the Petitioner's specific proposed endeavor's impact stands to sufficiently extend beyond his customers and businesses that he elects to work with to impact his field, the U.S. economy, or societal welfare at a level commensurate with national importance. Although we acknowledge the Petitioner's brief and additional documents, the Petitioner has not established new facts relevant to our appellate decision that would warrant reopening of the proceedings. We will not re-adjudicate the petition anew. The motion to reopen will therefore be dismissed.

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 to reconsider, the Petitioner does not explain how we erroneously dismissed his appeal. The Petitioner also does not explain how our appellate decision was based on an incorrect application of law or USCIS policy and that our decision was incorrect based on the evidence in the record at the time of the decision. On motion, the Petitioner aims to address and clarify key aspects of his case, particularly that his proposed endeavor has national importance. The Petitioner's submission establishes no error in our appellate decision, as he merely reasserts arguments we have already considered and found unpersuasive in our previous decision. *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"). 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 to reconsider will be dismissed. 8 C.F.R. § 103.5(a)(4).

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 motions 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 reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.