U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41602783

Date: FEB. 26, 2026

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Skilled Worker)

The Petitioner, a provider of real estate appraisal services, seeks to employ the Beneficiary as an appraiser. The company requests his classification under the employment-based, third-preference category (EB-3) as a "skilled worker." *See* Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i). U.S. businesses may sponsor aliens for permanent residence under this subcategory to work in jobs requiring at least two years of training or experience. *Id.*

Service Center Operations (SCOPS) denied the petition concluding that, on the U.S. Department of Labor (DOL) certification accompanying the petition, the Petitioner concealed a fraternal relationship between its sole corporate officer and the Beneficiary. We later dismissed the Petitioner's 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 motions.

I. MOTION TO REOPEN

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).

In dismissing the appeal, we agreed with SCOPS' determination that the Petitioner willfully misrepresented a material fact on the labor certification. Specifically, we concluded the petition contained a false material fact, and that the Petitioner did not overcome the strong presumption based on the evidence submitted that they willfully misrepresented a familial relationship between the Beneficiary and the principal of the Petitioner, the Beneficiary's brother.

On motion, the Petitioner submits a brief in support. However, upon review, the brief submitted on motion is identical to a support letter previously submitted to the record in August 2023. Likewise, the Petitioner provides an affidavit from counsel on motion dated in November 2025, but this document is identical to an affidavit provided by counsel in August 2023. The Petitioner also submits emails between counsel, the Beneficiary, and the Beneficiary's brother dated in 2021 that are already contained in the record. We considered and analyzed this evidence in our prior decision.

Therefore, the Petitioner has not provided new facts to establish that we erred in dismissing the prior appeal. Because the Petitioner has not established new facts that would warrant reopening of this proceeding, we have no basis to reopen our prior decision.

II. 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.

As discussed, on motion, the Petitioner provides a brief that is identical to a support letter provided by counsel in August 2023. The brief submitted includes no specific discussion of our prior decision on appeal and it reargues facts and issues we have already considered 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"). We will not re-adjudicate the petition anew. Therefore, the underlying petition remains denied and SCOPS' determination that the Petitioner willfully misrepresented a material fact remains undisturbed.

ORDER: The motion to reopen is dismissed.

FURTHER 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.