U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41587466

Date: FEB. 27, 2026

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) classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not establish that a waiver of the job offer requirement, and thus of a labor certification, would be in the national interest. SCOPS then dismissed two combined motions to reopen and reconsider. We dismissed the subsequent appeal and also two combined motions to reopen and reconsider. The matter is now before us again on a third 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.

Here, the Petitioner's current motion to reconsider does not 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.

In our prior decision, we acknowledged the Petitioner's arguments and additional new evidence, correctly finding that the Petitioner did not meet the requirements for a motion to reopen or a motion to reconsider. We considered the additional evidence in support of the prior motion to reopen, finding the evidence did not cure the issues raised in the prior appeal decision and did not establish new facts that would warrant reopening of the proceeding. In addition, we pointed out that the Petitioner did not

raise issue with our prior analysis of the evidence, concluding he did not establish that our previous decision was based on an incorrect application of law or policy and did not meet the requirements for a motion to reconsider.

Here, the Petitioner's motion to reconsider mainly disagrees with our prior conclusions without identifying any misapplication of law or policy or demonstrating our decision was incorrect based on the evidence in the record of proceeding. We have already considered and analyzed the Petitioner's evidence in the petition under the preponderance of evidence standard and found it insufficient to demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. at 473. The Petitioner cannot meet the requirements of a motion to reconsider by broadly disagreeing with our conclusions; instead, the motion must demonstrate how we erred as a matter of law or policy. *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party may submit in essence, the same brief and seek reconsideration by generally alleging error in the prior decision).

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. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied and the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

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.