U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29568245

Date: JAN. 10, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, an entrepreneur who intends to manage a company operating in the field of water purification, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner's proposed endeavor has national importance, that the Petitioner is well positioned to advance his endeavor, or that there is a national interest in waiving the requirements of a job offer and, thus, of a labor certification. We dismissed a subsequent 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 combined motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(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 to reopen, the Petitioner reiterates information already in the record; however, he does not state a new fact. Moreover, the Petitioner does not submit any additional documentary evidence that may support such a new fact. Because the Petitioner does not state a new fact and, furthermore, because he does not support such a fact with documentary evidence, the submission does not satisfy the requirements of a motion to reopen; therefore, the motion will be dismissed. *See* 8 C.F.R. § 103.5(a)(2), (a)(4).

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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion to reconsider, the Petitioner contests the correctness of our prior decision. The Petitioner also generally references applicable laws, including section 203(b)(2) of the Act and the precedent decision, *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), and he reasserts that the record satisfies applicable criteria. The Petitioner also generally references *U.S. v. Cardozo-Fonseca*, 480 U.S. 421 (1987), which discusses the phrase "more likely than not" as a greater than 50 percent chance of an occurrence taking place. However, the Petitioner does not assert how we may have incorrectly applied any particular law or policy and generally "erred in finding otherwise." We have reviewed the record in its entirety and we affirm our prior decision that the Petitioner has not demonstrated eligibility for a national interest waiver for the reasons stated therein, which we incorporate herein by reference. Because the Petitioner has not established that our previous decision was based on incorrect application of law or policy based on the record at the time we issued our decision, the submission does not satisfy the requirements of a motion to reconsider; therefore, the motion will be dismissed. *See* 8 C.F.R. § 103.5(a)(3), (a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.