U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27546274

Date: JAN. 10, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a marketing manager, 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 (USCIS) 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 Petitioner did not establish eligibility for a national interest waiver. We summarily dismissed a subsequent appeal. The matter is now before us on 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). 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, the Petitioner contests the correctness of our prior decision. We summarily dismissed the appeal because a brief was not timely received subsequent to the filing of the appeal. On motion, the Petitioner asserts that a brief and supporting evidence was filed timely. The Petitioner submits a UPS delivery notification dated August 11, 2022, for a shipment sent from the law firm of the Petitioner's attorney to [redacted] Maryland.

The instructions on Form I-290B, Notice of Appeal or Motion, provide the option to either call the National Customer Service Center (known also as the USCIS Contact Center) or to visit a USCIS website to determine the correct filing address for an appeal or motion. The website, www.uscis.gov/i-

290b-addresses, provides addresses based on the subject of the appeal or motion and the delivery service used. For an appeal or motion on a decision made by a USCIS service center for a Form I-140, the correct filing address for UPS deliveries is shown as Box 21100, 2108 East Elliot Road in Tempe, Arizona.

It appears that the Petitioner did not properly file the appeal brief at the appropriate address. As such, we consider our latest decision to dismiss the appeal because we did not timely receive an appeal brief to be correct. The Petitioner has not established 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.

ORDER: The motion to reconsider is dismissed.