U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33586196

Date: JAN. 10, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, an aircraft maintenance technician, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this 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 the Petitioner did not fulfill at least three of the six criteria to establish exceptional ability. Specifically, the Director found the Petitioner fulfilled only two criteria: submitting an official academic record related to the area of exceptional ability and a license to practice the profession. We dismissed a subsequent appeal, concurring with the Director that the Petitioner had not demonstrated exceptional ability and reserving the Petitioner's arguments related to three prongs of the *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), analytical framework. We subsequently dismissed a combined motion to reopen and reconsider, finding the Petitioner did not meet the requirements of a motion to reopen or reconsider. The matter is now before us on a second 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. In support of the motion, the Petitioner asserts we exceeded the preponderance of the evidence standard, as the Petitioner established he meets at least three of the requisite criteria to demonstrate exceptional ability. The Petitioner contends he has met two additional criteria for exceptional ability: membership in a

professional organization and recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

The Petitioner reiterates on instant motion that he meets the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(E) based on his membership with the Professional Aviation Maintenance Association (PAMA). The Petitioner contends that our analysis requiring members to possess the equivalent of a U.S. bachelor's degree is too narrow; the Petitioner claims this degree equivalency requirement is not explicitly required under 8 C.F.R. § 204.5(k)(2). The Petitioner argues that PAMA's requirement for member FAA certifications is comparable to or exceeds the level of expertise required for a bachelor's degree. The Petitioner also contends that PAMA's commitment to professional development, programs, initiatives, and collaboration with government entities demonstrate its characteristics as a professional body. However, as stated in our previous decision, 8 C.F.R. § 204.5(k)(3)(ii)(E) requires evidence of membership in professional associations and 8 C.F.R. § 204.5(k)(2) defines profession as "one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation," The Petitioner's occupation is not listed at section 101(a)(32) of the Act and the Petitioner does not argue otherwise. 8 C.F.R. § 204.5(k), titled as "[aliens] who are members of the professions holding advanced degrees or aliens of exceptional ability," explicitly applies to the Petitioner, while 8 C.F.R. § 204.5(k)(2) specifies its "profession" definition is applicable "in this section." Overall, though we acknowledge PAMA's membership requirements include FAA certifications, the Petitioner has not demonstrated its membership requires a U.S. bachelor's degree or its foreign equivalent, as specified by the regulations.

The Petitioner also reiterates that he meets the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(F) based on his evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations. The Petitioner contends that we overlooked the Petitioner's advanced certifications and licenses, as his possession of certifications not strictly required for his position demonstrates his significantly higher level of expertise. The Petitioner also asserts his submitted letters of support constitute peer validation of his work in improving operational and safety standards through his work as an aircraft maintenance technician and that we did not give due consideration to his expert opinion letters. However, 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). The Petitioner's contentions in their current motion merely reargue facts and issues we have already considered in our previous decisions. *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"). After considering the evidence, we previously determined that while the Petitioner's certifications demonstrate the Petitioner's growth of knowledge and personal achievements, they do not establish the significant contributions to the field required by this criterion. We similarly determined that the letters of support, including expert opinions, attest to the quality of the Petitioner's work and expertise. However, while the Petitioner's work undoubtedly affects the safety of the aircrafts in his workplace, we determined the evidence is insufficient to establish his work resulted in significant contributions to the larger aviation mechanic field. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

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 motion to reconsider will be dismissed.

ORDER: The motion to reconsider is dismissed.