U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34927441

Date: JAN. 17, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, an airline pilot, 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 Texas Service Center denied the petition, concluding that the record did not establish that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed a subsequent appeal and a previous combined motion to reopen and reconsider. The matter is again 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

In our prior decision dismissing the Petitioner's motion to reopen and reconsider, we determined the Petitioner did not establish our decision on appeal was based on an incorrect application of law or policy at the time it was issued, nor did the new evidence submitted with the motion establish eligibility for the benefit sought. In support of his motion, the Petitioner provided a personal statement that indicated he might consider pursuing a career in aerospace engineering in the future; however, we noted that a petition cannot be approved based on a speculative, possible future new set of facts. We acknowledged the Petitioner's arguments on motion, recognizing those that were addressed in the Director's and our prior decisions. Finally, we again concluded the Petitioner did not establish his role as a commercial airline pilot for a specific airline has the potential to impact the aviation industry as a whole, thus rising to the level of national importance.

On motion, the Petitioner contests the correctness of our prior decision, asserting that our analysis failed to recognize the Petitioner's critical role in addressing the current shortage of airline pilots and that his proposed endeavor "aligns with national initiative and is poised to impact the national economy positively" – arguments we considered and addressed in our prior motion decision. In support of the present motion, the Petitioner relies on general assertions of eligibility for a national interest waiver, reiterating his contention that we failed to properly apply the burden of proof as explained in *Matter of Chawathe*. 25 I&N Dec. at 375-76. We further note the Petitioner now asserts for the first time on motion that we did not properly consider and weigh all evidence – most specifically the expert opinion letters, citing *Buletini v. INS*, 850 F. Supp. 1222 (E.D. Mich. 1994) in support. The court in *Buletini*, however, did not reject the concept of examining the quality of the evidence presented to determine whether it establishes a petitioner's eligibility. When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *See Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir.1992). We conclude the record reflects our consideration of all evidence in the totality, including a careful weighing of all evidence.

As such, the Petitioner's contentions in his current motion largely 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"). We will not re-adjudicate the petition anew.

ORDER: The motion to reconsider is dismissed.