U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36108097

Date: JAN. 21, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, an entrepreneur, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree, 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 Petitioner did not establish that he was eligible for EB-2 Classification and a national interest waiver. We dismissed a subsequent appeal. The matter is now before us on motion to reopen.

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 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, the Petitioner submits a personal statement, a professor's letter from the [redacted] in Israel, and information on how expanding access to higher education would promote job creation and the U.S. national interest. The Petitioner asserts that this evidence, in combination with previously submitted evidence, establishes that he is a member of the professions holding an advanced degree and that he merits a national interest waiver.

In our prior decision, we determined that the Petitioner did not establish eligibility for the EB-2 classification as a member of the professions holding an advanced degree and therefore, he was ineligible for a national interest waiver. We declined to reach any further conclusions regarding his national interest waiver claims as it served no meaningful purpose. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

In making our finding that the Petitioner did not establish he is a member of the professions holding an advanced degree, we discussed evidence submitted by the Petitioner and why it was insufficient. We determined that the Petitioner did not establish he is a member of the professions, as the record did not sufficiently establish what profession the Petitioner holds. While the Petitioner listed his occupation as "entrepreneur" on the petition, we stated that an entrepreneur alone would not be considered a profession under the regulatory definition since there is no established educational requirement to become an entrepreneur. Further, we determined the proposed endeavor itself was not clear on the Petitioner's role such as whether he is an inventor, a creator of the idea or technology, or an educator. Without more information on the proposed endeavor and the Petitioner's role, we could not determine whether he is a member of the professions. In regard to his claim that he holds an advanced degree, he submitted a letter from the [redacted] in Israel providing that he completed a master of science degree. However, we noted it was not corroborated by other official documents such as a diploma or transcript. The Petitioner also submitted an academic evaluation claiming he had the equivalent to a U.S. master's degree, but we did not find it persuasive. Specifically, we mentioned that the author stated that they have "reviewed the curriculum of this program," however, the curriculum was not been provided for our review; the author stated that the Petitioner's degree is the equivalent of a U.S. master of science degree but did not provide specific details on how they reached this conclusion; the author did not compare the number of credit hours the Petitioner completed to the number of credit hours needed to complete a U.S. master of science degree; and the author did not specifically compare the courses the Petitioner completed with the courses needed for a U.S. master of science degree. Based on the above, we did not find the academic evaluation to be persuasive and we could not conduct our own analysis as the documents in the record did not contain enough information regarding the Petitioner's degree and its U.S. equivalency.

On motion, the evidence submitted by the Petitioner does not sufficiently address the evidentiary deficiencies listed in our initial decision. The professor's letter from the [redacted] provides that he was the Petitioner's advisor at the institute, the master of science degrees at the institute are considered equivalent to those granted by U.S. universities, students must complete 24 months of academic coursework and research and submit a thesis, and graduates of the program have been accepted to prestigious U.S. universities. We acknowledge the content of this letter, however, the record still lacks evidence of an official academic record for the Petitioner, such as a diploma or transcript, establishing his completion of the degree program. Furthermore, the Petitioner has not addressed the evidentiary issues we previously discussed with his academic evaluation relating to U.S. equivalency of the foreign degree. On motion, the Petitioner has not met his burden of proof to establish that he is an advanced degree professional, and therefore he is not eligible for EB-2 classification. As this issue is dispositive of the motion, we will not address the Petitioner's arguments that he is a member of the professions and that he is eligible for a national interest waiver. *See INS v. Bagamasbad*, 429 U.S. at 25. Based on the record, the motion to reopen will be dismissed.

ORDER: The motion to reopen is dismissed.