U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35408068

Date: JAN. 22, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, an entrepreneur in healthcare and life sciences, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree and 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 the Petitioner qualifies for the national interest waiver. We dismissed a subsequent appeal. The Petitioner filed a combined motion to reopen and reconsider, which we dismissed because he did not meet the requirements of a motion to reopen or reconsider. The matter is now before us on a second combined motion 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 motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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).

On motion, the Petitioner asserts that the record demonstrates his proposed endeavor to provide life sciences education and skill development has national importance and meets the national interest waiver requirements. He contends that his endeavor has the potential to significantly impact "U.S. health, innovation, and economic security"; "contribute to the ongoing need for advanced workforce training in life sciences"; and "create jobs, foster innovation, and contribute positively to the U.S. economy." In support of his motion, the Petitioner submits a brief, citations for industry articles and reports, and his analysis of the proposed endeavor's economic impact. He further contends that we erred in our prior decision by incorrectly applying the standards outlined in *Matter of Dhanasar*, 26

I&N Dec. 884, 889 (AAO 2016); failing to adequately recognize the endeavor's unique and innovative contribution to life sciences education; and overlooking pertinent evidence, such as the previously submitted business plan and economic projections.

A motion's scope is limited to the latest decision in the proceeding. In our prior decision, we noted that the Petitioner provided a brief, articles and industry reports, a statement describing the expected economic impact of his proposed endeavor, and a recommendation letter discussing the Petitioner's capabilities and the importance of e-learning and skill development in the life sciences field. We concluded that the record lacked sufficient detail and evidence to demonstrate the services offered by the proposed endeavor rose to the level of national importance or that the endeavor has significant potential to employ U.S. workers or provide other substantial positive economic effects. The Petitioner also claimed that we erred in dismissing his appeal because we failed to fully consider the nature of his proposed endeavor, in particular with respect to its scalability and impact. However, he did not specify how we erred in applying the framework set forth in *Matter of Dhanasar* or submit sufficient evidence to meet his burden of establishing eligibility.

Here, the Petitioner has not presented new facts supported by documentary evidence with the instant motion and has not demonstrated eligibility for the requested immigration benefit. 8 C.F.R. § 103.5(a)(2). Moreover, the Petitioner has not established that our latest decision was based on an incorrect application of law or policy at the time we issued our decision. Accordingly, the combined motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.