U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31745289

Date: JULY 18, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner 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 had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest**.** We dismissed the Petitioner's appeal and a combined motion to reopen and reconsider on the same grounds. The matter is now before us again on a second motion to reopen.[1] 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). 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).

In our decision to dismiss the Petitioner's appeal, we noted that the Petitioner's proposed endeavor involved the creation of a company which would pursue two lines of business: business consulting "focused on international trade between the United States and Brazil" and hospital consulting providing expertise in the area of patient blood management (PBM). Regarding the PBM line of business, we noted that the record showed that this is a health care strategy implemented by medical institutions and related entities, rather than business and financial consultants such as the Petitioner. We concluded that the Petitioner did not establish that the prospective impact of his proposed endeavor would be substantial enough to demonstrate national importance under *Dhanasar*.

[1] Although the Petitioner indicated on the Form I-1290B, Notice of Appeal or Motion, that he was filing a motion to reopen and a motion to reconsider, the Petitioner's statement submitted in support references a "motion to reopen" and requests "the reopening of the case." The Petitioner does not make any claims regarding reconsideration. Therefore, we will review the instant motion as a motion to reopen.

On combined motion to reopen and reconsider, we again determined that the Petitioner had not established the national importance of his proposed endeavor, which was the only issue on which our previous decision focused. We concluded that the evidence did not establish that the Petitioner's proposed endeavor would have broader implications but would instead primarily benefit the business' employees and clients and thus have a limited prospective economic impact.

With the instant motion to reopen, the Petitioner maintains that PBM represents "a significant shift in a hospital's organizational structure" and "impacts every facet of a hospital, involving top management, IT departments, quality control, legal teams, doctors, nurses, and the entire supply chain." Thus, the Petitioner asserts that it is "nonsensical" to claim that the integration of a PBM program in hospitals has a negligible economic impact. The Petitioner also contends that there is a shortage of qualified professionals to implement PBM on a national level and this shortage highlights the national relevance of the Petitioner's endeavor.

The Petitioner's statements with the instant motion regarding his eligibility for the EB-2 classification are insufficient to overcome the conclusions reached by this office based on the evidence submitted by the Petitioner. The Petitioner has not articulated on motion how we erred in finding that the record did not demonstrate the proposed endeavor has national importance. While the Petitioner references information from the World Health Organization and the American Society for PBM Development as evidence of the national importance of his endeavor, the record does not include a plan or other indication of how the Petitioner will operate a financial consulting business that will impact his individual clients at the level of national importance contemplated under the first prong of the *Dhanasar* framework.[2] The Petitioner has not established on motion that his intent to apply his knowledge to his prospective client is an activity that will have a broad impact. The record does not offer evidence sufficient to translate *how* the Petitioner's specific work for his prospective clients stands to sufficiently impact U.S. interests or the relevant consulting business more broadly at a level commensurate with national importance.

As for the Petitioner's assertion on motion that the integration of a PBM program in hospital will contribute to the nation's economy, it is not evident on motion that the company will generate revenue to create jobs, to expand, or to otherwise notably impact the economy in a location in which it intends to operate. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's pursuits as a consultant would reach the level of "substantial positive economic effects" as contemplated by *Dhanasar*. *See Dhanasar* at 889-90.

The Petitioner also maintains that we erred when we determined that the documentation submitted with the previous motion, including evidence of a presentation he made, as well as correspondence relating to his membership in the Society for the Advancement of Patient Blood Management (SABM) and its annual conference, and a letter from a company in Brazil expressing interest in partnering with his company for entry into the U.S. market, occurred more than two years after the petition was filed and thus, did not help to establish the Petitioner's eligibility for the benefit sought. He explains that due to the COVID-19 pandemic, there were delays in obtaining work authorization and it was not until

[2] As for the Petitioner's contention that he was attaching to the motion a "dissertation detailing the current status of his PBM-related projects" in the United States, we note that the instant motion did not contain such documentation.

May 2022, when he obtained work authorization, that he was able to actively start implementing his business plan and thus, this office misinterpreted the evidence's relevance and timing.

As we detailed in our decision to dismiss the combined motion to reopen, we did review and address said documentation on motion. We explained that while the Petitioner's SABM membership and presentation supported to some extent his positioning to advance his proposed endeavor under the second prong of the *Dhanasar* framework, they did not show the potential broader implications of his work under the first prong. Further, even if the submitted letter from the Brazilian company had provided details about the proposed collaboration, we found it also did not serve to show that the impact of the proposed endeavor would extend beyond the Petitioner's company's employees, clients and business partners to have a broader impact on the field of financial consulting.

The scope of a motion is limited to "the prior decision" and jurisdiction for the motion is limited to the official who made 'the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). Therefore, we will only consider new evidence to the extent that it pertains to our latest decision dismissing the motion. Here, the Applicant has not provided new facts to establish that we erred in dismissing the appeal and subsequent combined motion to reopen and reconsider. Because the Applicant has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision.

ORDER: The motion to reopen is dismissed.