U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32196665

Date: JUL 29, 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 EB-2 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. The matter is now before us on combined motions 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 motions.

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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy the aforementioned requirements and demonstrate eligibility for the requested benefit.

In dismissing the appeal, we acknowledged the substantial merit of the Petitioner's endeavor and agreed with the Director that he did not meet the first prong of the analytical framework set forth in Matter of Dhanasar, 26 I&N Dec. 884, 889 (AAO 2016). The dismissal also detailed the reasons why the evidence on record did not establish that the Petitioner's proposal to become the business administrator in the global reinsurance market met the standard of national importance set forth under the first prong of Dhanasar. We explained that the Petitioner had not submitted sufficient evidence to establish the national importance of the specific proposed endeavor, instead repeatedly emphasizing the importance of the reinsurance industry in general. Further the Petitioner did not provide documentation to corroborate his assertions that the prospective impact of his work as the managing

general agent with the proposed company, [redacted] would have an impact beyond his prospective clients to impact the economy more broadly, or how the economic projections would impact the economy.

On motion, the Petitioner maintains we erred in the analysis of the importance of the impact of the Petitioner's endeavor on the reinsurance industry, natural disaster management and engineering projects. He also asserts that the dismissal failed to consider the positive economic effects that managing general agents such as the Petitioner can have on the economy and on small businesses.

The Petitioner has not provided new facts or documentary evidence showing that he meets the "national importance" requirement of Dhanasar's first prong, and therefore he has not overcome our prior determination. The Petitioner submits a brief, information on the managing general agent role, a more detailed description of the business model for the proposed endeavor, [redacted] and a press release on the insurance and reinsurance industry, among other documents. In the description of the endeavor, the Petitioner again explains the importance of the digitalization of the reinsurance industry and how his company would connect current and future platform participants. However, this information is not significantly different from statements regarding the proposed efficiencies made in the business plan previously submitted. Similar to other documentation included in the initial filing and appeal, the information on the managing general agent role and press release on the insurance industry address the national importance of the reinsurance market generally but not the specific proposed endeavor. The motion to reopen is therefore dismissed as the Petitioner has not met the requirements of such a motion pursuant to 8 C.F.R. § 103.5(a)(4).

Regarding the motion to reconsider, the Petitioner alleges we failed to apply the correct standard of proof, the preponderance of evidence, in our appellate decision. Notably, he does not offer any specific instances in which we held the evidence to a standard above the preponderance of the evidence. The Petitioner claims on motion that the information on the reinsurance field and the managing general agent demonstrate the national importance of the endeavor without stating how our prior decision erred in law or policy. In the dismissal, we reviewed each piece of evidence in the record and considered the arguments raised by the Petitioner. We concluded that the record did not demonstrate that the Petitioner's proposed endeavor rises to the level of national importance because the documentation emphasized the importance of the reinsurance industry generally and did not demonstrate how the specific proposed endeavor would have broader implications within that field. The Petitioner has not explained how our decision to dismiss the appeal was erroneous or how we failed to properly apply the preponderance of evidence standard.

Further, the Petitioner asserts the appellate decision overlooked information demonstrating the influence of the proposed endeavor on the reinsurance industry, and that the decision erred in relying solely on economic figures and employment generation. We determined that although the revenue forecasts are projected to be $2.5M and create 10 positions in year 5, the Petitioner did not show how these future projections impact the economy. On motion the Petitioner did not demonstrate how the financial projections were improperly adjudicated on appeal and relies on general information regarding the economic benefits of small businesses to reassert that the proposed endeavor would have a national impact. The Petitioner also reiterates his exceptional abilities in the field, although we noted in the dismissal this relates to the second prong of the Dhanasar analysis. Disagreements with our conclusions without showing that we erred as a matter of law or pointing to policy that contradicts our analysis of

the evidence is not a ground to reconsider our decision. See O-S-G-, 24 I&N Dec. at 58. The Petitioner's motion does not meet the applicable requirements of a motion to reconsider because he does not establish that our decision was based on an incorrect application of law or policy. See 8 C.F.R. § 103.5(a)(3).

The Petitioner has not established new facts relevant to our appellate decision that would warrant reopening of the proceedings, nor has he shown that we erred as a matter of law or USCIS policy. Consequently, we have no basis for reopening or reconsideration of our decision. Accordingly, the motions 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.