U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32517570

Date: JUL. 30, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, an entrepreneur and coach specialist, seeks classification as an individual of exceptional ability. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus of a labor certification, when it is in the national interest to do so.

The Director of the Texas Service Center denied the petition, concluding that although the Petitioner established that he qualifies as an individual of exceptional ability, he did not demonstrate 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. 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). 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 to reopen, the Petitioner submits a brief explaining how he meets the criteria for the requested classification, his resume, and an additional copy of his business plan. On motion to reconsider, the Petitioner does not address our prior decision, or allege that our prior decision was based on an incorrect application of law or policy at the time we issued the decision.

In our prior decision, incorporated here by reference, we determined the Petitioner did not meet the first prong of the analytical framework in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), to adjudicate national interest waiver petitions. We found the Petitioner did not establish the national importance of his proposed endeavor. *See id.* at 889 (providing in relevant part that, to establish eligibility for a national interest waiver, the petitioner must establish that their specific proposed endeavor has national importance). We addressed the Petitioner's contentions that he is "a revered professional for his leadership and specialized knowledge in training and development," and that his "vast experience in the field will significantly contribute to the nation's economy." However, we concluded that, as determined by the Director, the Petitioner had not determined that the proposed endeavor is of national importance. We determined that the evidence provided by the Petitioner did not suggest that the Petitioner's skills differ from or improve upon those already available in the United States. Nor did the evidence demonstrate that the use of the Petitioner's experience would reach beyond benefitting his own company and clients or have broader implications in the field of business development and training. We further concluded that the Petitioner's business plan did not demonstrate that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. On motion, the Petitioner does not identify any specific misapplication of law or policy in these determinations.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, he did not state new facts as they relate to our prior decision. The evidence submitted largely repeats what was already included in the record, and the business plan and resume again do not show that his potential endeavor will have broader implications at a level of national importance, or that the endeavor would impact the field or the U.S. economy more broadly at a level commensurate with national importance. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, 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.