U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 32315115

Date: JULY 30, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, an aircraft mechanical maintenance specialist, seeks employment-based second preference (EB-2) immigrant classification as an individual of exceptional ability as well as a national interest waiver of the job offer requirement attached to this classification. 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 the Petitioner did not establish eligibility for a national interest waiver. 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, the Petitioner submits a revised endeavor statement that outlines a strategy "to revolutionize aviation maintenance industry in the USA by implementing advanced sustainable practices . . . supported by comprehensive training programs for technicians adopting international best practices in environmental stewardship" with a goal of reducing "the ecological footprint of aviation maintenance operations drastically." The Petitioner asserts that this new evidence establishes his eligibility, as it presents a "visionary strategy for enhancing aircraft maintenance and explains how his "methods and techniques would have broad impact on top of [his] own benefit."

The Petitioner did not initially indicate any intention to revolutionize the aviation maintenance industry in the United States by implementing advanced sustainable practices. Rather, he stated that his proposed endeavor was to "work in the United States as an Aircraft Maintenance Specialist through established projects to improve U.S. Aviation Industry effectively," and "provide aid in troubleshooting, diagnosing, and replacements of the aircraft." The Petitioner must establish all

eligibility requirements for the immigration benefit have been satisfied from the time filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1), (12); Matter of Katigbak, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Further, a petitioner may not make material changes to a petition that has already been filed in an effort to make a deficient petition conform to USCIS requirements. Matter of Izummi, 22 I&N Dec. 169, 175 (Assoc. Comm'r 1988). Accordingly, we will not consider the Petitioner's materially changed proposed endeavor.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. 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 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.