U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37894122

Date: JUNE 3, 2025

Motions on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Professional)

The Petitioner, a provider of financial services, files its seventh round of combined motions to reopen and reconsider in this matter. The company contends that Service Center Operations (SCOPS) violated the Beneficiary's due process rights by not mailing him a notice of intent to revoke (NOIR) the petition.

Because the motion to reopen does not meet applicable requirements and the Petitioner cannot assert the Beneficiary's legal rights in its motion to reconsider, we will dismiss the filings.

I. LAW

A motion to reopen must state new facts, supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). In contrast, a motion to reconsider must establish that our prior decision misapplied law or policy based on the evidence at the time of the decision. 8 C.F.R. § 103.5(a)(3). On motion, our scope of review is limited to the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

II. MOTION TO REOPEN

The Petitioner's motion to reopen lacks documentary evidence and does not state new facts. We must therefore dismiss it. *See* 8 C.F.R. § 103.5(a)(4) (requiring dismissal of "[a] motion that does not meet applicable requirements").

III. MOTION TO RECONSIDER

The Petitioner contends, that by the petition's revocation in 2018, the Beneficiary had received permission to legally work in the United States based on his pending application for adjustment of status. *See* 8 C.F.R. § 274a.12(c)(9) (authorizing adjustment applicants to apply for U.S. employment authorization while their applications remain pending). The petition's approval in turn had allowed him to file the adjustment application. *See* 8 C.F.R. § 245.1(a)(1) (permitting an alien physically

present in the United States to file an adjustment application "if the applicant is eligible to receive an immigrant visa and an immigrant visa is immediately available at the time of [the application's] filing").

The Petitioner argues that the Beneficiary's employment authorization constituted a "property right" entitling him to constitutional due process protections. *See* U.S. Const. amend. V (barring deprivation of property "without due process of law"). The Petitioner asserts that SCOPS violated the Beneficiary's due process rights by failing to send him notice of the Agency's intent to revoke the petition on his behalf. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (citation omitted) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner'").

Assuming arguendo that the Beneficiary has a protected property interest in his employment authorization, parties "must assert [their] own legal rights" and "cannot rest [their] claim to relief on the legal rights . . . of third parties." *Warth v. Seldin*, 422 U.S. 490, 499 (1975); *see also Dep't of State v. Munoz*, 602 U.S. 899, 916-17 (2024) (explaining that U.S. citizens lack procedural due process rights in the visa proceedings of others). As our prior decision discusses, the Beneficiary does not qualify for treatment as an "affected party" in these revocation proceedings. *See Matter of V-S-G-Inc.*, Adopted Decision 2017-06, at *14 (AAO Nov. 11, 2017) (treating beneficiaries in revocation proceedings as affected parties if they qualify to "port" to a new job under Immigration and Nationality Act section 204(j), 8 U.S.C. § 1154(j), and properly requested to do so). The Petitioner therefore may not assert his purported due process rights.

Our appellate and/or prior motion decisions in this matter have discussed the Petitioner's remaining arguments. We therefore need not consider them. *See Martinez-Tapia v. Garland*, No. 22-9539, 2023 WL 3163255, at *2 (10th Cir. May 1, 2023) (quoting *Ahmed v. Ashcroft*, 388 F.3d 247, 249 (7th Cir. 2004)) ("A motion [for reconsideration] that merely republishes the reasons that had failed to convince the tribunal in the first place gives the tribunal no reason to change its mind."); *see also Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) ("[A] motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior . . . decision").

IV. CONCLUSION

The Petitioner's motion to reopen does not meet applicable requirements. The company's motion to reconsider does not establish our prior decision's misapplication of law or policy.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.