U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38219168

Date: JUNE 05, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a business and marketing professional, 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). Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner qualified for EB-2 classification as a member of the professions holding an advanced degree, but determining that he 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 a subsequent appeal and two subsequent motions to reconsider. 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 motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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 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 news articles about the role that small businesses play in supporting economic growth in the U.S., articles related to doing business in Latin America, updated economic multipliers, and an article on the declining rate of new start-up businesses in the U.S. He contends that these articles constitute documentary evidence to support his assertion that the proposed endeavor is of national importance. For the following reasons this evidence is insufficient to establish the national importance of the proposed endeavor.

The Petitioner contends that articles discussing the importance of small businesses as drivers of the U.S. economy demonstrate the proposed endeavor's national importance because the endeavor focuses largely on small and medium business enterprises. The Petitioner also references the article on the declining rate of new start-up businesses in the U.S., noting that it identifies the important role that entrepreneurs play in supporting the economy. In determining national importance, the relevant

question is not the importance of the industry or profession in which the individual will work; instead we focus on "the specific endeavor that the foreign national proposes to undertake." *See Matter of Dhanasar* 26 I&N Dec. 884, 889 (AAO 2016). While these articles demonstrate the importance of the field of business, they do not specifically reference the proposed endeavor or speak to its potential prospective impact. Accordingly they are insufficient to establish the proposed endeavor's national importance. *See id.* (explaining that we consider the proposed endeavor's potential prospective impact in determining whether it has national importance).

The Petitioner additionally claims on motion that, per the updated economic multipliers, the proposed endeavor's claimed creation of 20 direct jobs will generate 84 indirect jobs, thus showing the proposed endeavor's national importance. As we noted in dismissing the appeal, the business plan does not explain the basis for the potential expansion of the business to create the 20 direct jobs. Further, while the claimed projected job creation, inclusive of both direct and indirect jobs, indicates that the company has growth potential, it does not demonstrate that benefits to the regional or national economy resulting from the Petitioner's undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890.

The Petitioner further asserts that the proposed endeavor is it strengthens global trade partnerships and empowers potential clients to expand operations into international markets, thus aligning with U.S. "strategic priorities". However, he does not identify these strategic priorities or other Federal initiatives. Further, while the focus of a proposed endeavor may align with Federal initiatives this is not sufficient to establish its national importance.

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 these requirements and demonstrate eligibility for the requested benefit. On motion, the Petitioner contests the correctness of our prior decision and repeats his argument that we erred in our application of the "standard of national interest," improperly considering the evidence that he submitted to show the national importance of his proposed endeavor. 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). The Petitioner's contentions in their current motion to reconsider merely reargue facts and issues we have already considered in our previous decisions. *See, e.g., 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 Board decision"). We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

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