U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31434863

Date: JUNE 12, 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 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 did not establish 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 does not assert any new facts and does not submit any evidence. His submission does not meet the requirements of a motion to reopen. On motion to reconsider, the Petitioner asserts our prior decision is deficient because it did not evaluate all the arguments presented, but he does not specify which arguments were not addressed. The Petitioner also claims the Director did not properly analyze the evidence and "such overlook is confirmed by the AAO, with the appeal dismissal." The Petitioner does not identify what evidence he believes we did not assess. The Petitioner also states the denial of his petition was "contrary to law or policy, and unsupported by the evidence of record," but the Petitioner does not identify any specific error of law or misapplication of policy in our prior decision.

Upon review, we find no error in our prior decision, incorporated here by reference. We determined the record did not establish that the Petitioner was a member of the professions holding an advanced degree because the record did not demonstrate he had five years of progressive experience in his specialty after he obtained his baccalaureate degree. We detailed the inconsistencies in the record regarding the nature, date, and duration of the Petitioner's employment. The record indicated he simultaneously was a full-time student, operated a pet memorial business, and was a full-time sporting events organizer. We did not base our dismissal on this issue, however, because the Petitioner was not on notice of the deficiencies in the record. Instead, we advised the Petitioner that he would have to address and resolve the inconsistencies in his employment history and claimed qualifying experience in any further filings. On motion, the Petitioner does not address these issues.

In our prior decision, we also 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 relevant evidence and determined it did not demonstrate any broader implications of the Petitioner's proposed endeavor at a level of national importance. *See id.* (stating that national importance is evaluated through consideration of "potential prospective impact" and "broader implications"). We acknowledged the Petitioner's evidence regarding the martial arts field, but explained why the evidence did not demonstrate the Petitioner's proposed Jiu Jitsu company would positively impact the national economy, as the Petitioner claimed. *See id.* ("An endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, . . . may well be understood to have national importance."). We concluded the record did not establish that the Petitioner's proposed endeavor would reach beyond his company and clients to have broader implications on the field of athletic training. On motion, the Petitioner does not identify any specific misapplication of law or policy in these determinations.

The Petitioner's submission does not meet the requirements of a motion to reopen. 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.