U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41604337

Date: MAR. 2, 2026

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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but 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. 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). By regulation, our review on motion is limited to "the prior decision." 8 C.F.R. § 103.5(a)(1)(i). We must dismiss any motion that does not satisfy the relevant motion requirements. 8 C.F.R. § 103.5(a)(4). Upon review, we will dismiss the Petitioner's motions.

I. MOTION TO REOPEN

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We interpret "new facts" to mean those that are material to the issues raised on motion and that have not been previously submitted in the proceeding, which includes within the original petition and any subsequent motion or appeal. Reasserting previously stated facts or resubmitting previously provided evidence does not constitute the submission of "new facts."

On motion, the Petitioner does not state any new facts and does not include any new documentary evidence. *See* 8 C.F.R. 103.5(a)(2). Instead, he asserts that we failed to properly review the record and reargues that the evidence, including his business plan, reports, support letters, and expert opinion letter submitted before SCOPS, supports his eligibility for a national interest waiver. Because the Petitioner has not presented new facts that would warrant reopening of the proceeding, his motion

does not meet the applicable regulatory requirements. Therefore, we must dismiss it. *See* 8 C.F.R. 103.5(a)(4).

II. MOTION TO RECONSIDER

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).

On motion, the Petitioner contests the correctness of our prior decision dismissing his appeal. He asserts that we failed to consider the evidence, misapplied *Matter of Dhanasar*, and departed from the preponderance of the evidence standard.

As noted in our prior decision, the Petitioner did not show that his proposed endeavor stands to sufficiently extend beyond his company and its clientele to impact his field, the human resources industry, societal welfare, federal initiatives, or the U.S. economy more broadly at a level commensurate with national importance. While we acknowledge the Petitioner's arguments on motion, he has not established that our prior decision was based on an incorrect application of law or policy and that it was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3).

Although he asserts that we applied an "unduly restrictive interpretation of the national importance prong" and conflated "national importance" with "nationwide scale" or "major national footprint," this is a mischaracterization of the decision. The Petitioner states that our decision "repeatedly implies that the Petitioner's endeavor cannot be nationally important because the company is not a large enterprise and because its job creation projections do not reflect immediate large-scale influence." On the contrary, our decision reaffirmed SCOPS' conclusions that the Petitioner had not demonstrated through the evidence, including his business plan, letters, and articles, that the potential prospective impact of his proposed endeavor stands to offer broader implications to the field, region, or nation at a level significant enough to rise to national importance. For instance, with regard to the issue of whether the Petitioner had shown his endeavor would have a significant potential to employ U.S. workers or other substantial positive economic effects, we concluded that the Petitioner "has not offered sufficient evidence that his endeavor offers Florida or the United States a substantial economic benefit through employment levels or business activity." Specifically, we noted that the Petitioner "has not demonstrated that his company's future staffing levels and business activity stand to provide substantial economic benefits in Florida or in other parts of the United States" and he did not present evidence indicating that "the benefits to the regional or national economy resulting from his undertaking would reach the level of 'substantial positive economic effects.'" Contrary to the Petitioner's claims on motion, our decision did not state that the Petitioner's endeavor did not meet the national importance requirement because it was "not a large enterprise" or that its job creation projections did not reflect "immediate large-scale influence."

The Petitioner also argues that we improperly dismissed evidence regarding workforce shortages, employer needs, and the role of human capital development in national economic policy. However, we specifically addressed the reasons why the Petitioner had not met his burden through the documentation in the record to show how his endeavor would meaningfully impact these areas at a

level commensurate with national importance. For instance, the Petitioner argued that his endeavor is nationally important because it reportedly supported several federal priorities relating to the American Rescue Plan Act, the CHIPS and Science Act, and workforce development programs administered by the U.S Departments of Labor and Commerce. But, working in an important field, including one that is the subject of federal priorities, is insufficient to establish the proposed endeavor's national importance. The Petitioner must still demonstrate the specific endeavor's potential prospective impact in that area of national importance. *See Matter of Dhanasar*, 26 I&N Dec. at 889 (stating that the first prong's focus is on "the specific endeavor that the foreign national proposes to undertake"). Aside from generally claiming that his endeavor "aligns with recognized national workforce shortages" and that his services "would contribute directly to improving workforce efficiency and access," he does not explain or point to specific documents in the record that establish his specific work would directly and meaningfully impact these areas. Despite his arguments on motion, the Petitioner has not shown how our assessment of the evidence "demonstrates a misunderstanding of how Dhanasar [sic] evaluates importance" rather than a difference in how the evidence is weighed.

The Petitioner also alleges we "artificially segregate[ed] evidence relevant to the first and second prongs" and categorically excluded multiple exhibits as "only" relevant to the second prong. He points to support letters submitted with his petition, which he claims describes how the companies intended to use the Petitioner's services to mitigate staffing shortages, reduce turnover costs, improve compliance, and expand labor-force accessibility in sectors experiencing recruitment deficits. However, these letters do not explain how their individual use of the Petitioner's services provide benefits that would extend beyond the companies utilizing his services to impact the field, region, or nation more broadly.

Finally, the Petitioner's general assertion we failed to properly apply the preponderance of the evidence standard by dismissing various pieces of evidence, such as his financial projections, job-creation analyses, government data, expert opinion, and employer statements, also does not persuade us that our prior decision was incorrect. The agency has explained that "a petitioner or applicant in administrative immigration proceedings must prove by a preponderance of evidence that he or she is eligible for the benefit sought" and that, in evaluating the evidence, the agency makes its determination not by the quantity of evidence alone but by its quality. *Matter of Chawathe*, 25 I&N Dec. at 375. We considered the entirety of the evidence but agreed with SCOPS that it was not sufficient to demonstrate the Petitioner's eligibility for a national interest waiver. Although the Petitioner disagrees with the weight afforded to different pieces of the evidence, this alone does not establish an incorrect application of law or USCIS policy. Again, the purpose of a motion to reconsider is to show error in the most recent prior decision, not to adjudicate the petition anew. *See, e.g.*, *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party may submit, in essence, the same brief and seek reconsideration by generally alleging error in the prior decision).

The Petitioner has not demonstrated that our prior decision dismissing his appeal 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). Accordingly, the motion must be dismissed.

III. CONCLUSION

For the reasons discussed, the Petitioner has not provided proper cause for reopening or reconsideration of our prior 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.

NOTICE: Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.