U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 37507135

Date: MAR. 27, 2025

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 an individual of exceptional ability, 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 record did not establish that he qualifies for the underlying EB-2 classification or 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). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo 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). *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome). 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.

Initially, the Petitioner indicated that he intended to be a Business Intelligence Analyst as a Sustainability and Business Intelligence Consultant that would produce financial insights via data queries, reporting, and pattern spotting. In response to the Director's request for evidence (RFE), he then indicated that his proposed endeavor would focus on assuming the role of an Agile Consultant/Technology Project Manager that would, among other duties, implement and optimize Agile processes within a company. In our previous decision dismissing the Petitioner's appeal, we

concluded first that the Petitioner made a material change to his endeavor[1] in response to the Director's RFE and we only addressed his initial proposed endeavor of a Sustainability and Business Intelligence Consultant, not the materially changed proposed endeavor of an Agile Consultant/Technology Project Manager. Next, we concluded that the record did not establish the national importance of the Petitioner's proposed endeavor, as required by the first prong of the framework for adjudicating national interest waiver petitions under *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). Specifically, we determined that the Petitioner did not establish his proposed endeavor would have a broad enough impact sufficient to rise to the level of national importance. We noted that the Petitioner did not offer sufficient information or evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance in that the record does not include any forecasts regarding job creation, revenue and wages. We further noted that the Petitioner did not adequately show how his endeavor will benefit the regional or national economy. We concluded that the record did not include adequate corroborating evidence to show what the Petitioner's proposed work entails and how that endeavor offers broader implications in his field of sustainability and business intelligence to societal welfare that rise to the level of national importance. We determined that the Petitioner did not present evidence of any potential benefits to the regional or national economies resulting from his undertaking that would reach the level of substantial positive economic effects contemplated by *Dhanasar*. *Id.* at 890. Because this conclusion was dispositive of the appeal, we reserved our opinion as to the remaining *Dhanasar* prongs.

A. Motion to Reopen

On motion to reopen, the Petitioner asserts that he did not materially change his proposed endeavor, but rather "[t]he mention of 'Agile Consultant/Technology Project Manager' in [response to the Director's RFE] was intended to reflect specific methodologies and skills that [he] will apply in the lead role, but it does not change the core focus of [his] proposal, which remains Sustainability and Business Intelligence." He contends that his proposed endeavor focuses on a company's growth through sustainable practices by enhancing operational efficiency, reducing costs, and guiding investment decisions that are focused on long-term value creation. However, we again reiterate that at the time of filing the petition, the Petitioner stated that he intended to be a Business Intelligence Analyst, responsible for producing financial insights via data queries, reporting, and pattern spotting, and further expanded on his occupation as a Sustainability and Business Intelligence Consultant. Then, in response to the Director's RFE, the Petitioner stated that his proposed endeavor would focus on assuming the role of an Agile Consultant/Technology Project Manager, responsible for implementing and optimizing Agile processes within a company, and further explained, in detail, the role of an Agile Consultant within an organization. On motion, the Petitioner does not dispute that his initial description of the endeavor did not include plans of being an Agile Consultant or Technology Project Manager. While the responsibilities may share a connection in that one could identify inefficiencies within a company and the other could apply agile methods to fix those inefficiencies, the emphasis of each endeavor is quite different and the Petitioner does not further explain on motion how the endeavors are the same, such that we can determine he did not make a material change to his

[1] The Petitioner must establish all eligibility requirements for the immigration benefit have been satisfied from the time filing and continuing through adjudication. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). 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).

endeavor. In *Dhanasar,* we held that a petitioner must identify "the specific endeavor that the foreign national proposes to undertake." *Dhanasar,* 26 I&N Dec. at 889. Here, the Petitioner has not identified a specific and consistent proposed endeavor and therefore, has not established new facts overcoming our prior determination and establishing eligibility.

The Petitioner also submits multiple new industry articles and industry reports. The newly submitted industry articles and industry reports all generally discuss business intelligence, data analytics, data in sustainability, and clean energy projects, and do not specifically speak to the Petitioner's specific endeavor he proposes to undertake and how the proposed endeavor may have national or even global implications within a particular field, significant potential to employ U.S. workers, or other substantial positive economic effects reflecting the endeavor's national importance, as contemplated by *Matter of Dhanasar*, 26 I&N Dec. at 889-90. The Petitioner's evidence on motion to reopen therefore does not establish new facts overcoming our prior determination and demonstrating the national importance of the Petitioner's endeavor and eligibility for a national interest waiver. Therefore, we will dismiss the motion to reopen. 8 C.F.R. § 103.5(a)(2), (4).

B. Motion to Reconsider

On motion to reconsider, the Petitioner does not contest our decision's correctness or explain how we erroneously applied law or policy to satisfy the motion to reconsider requirements. Instead, he essentially reargues claims of his eligibility for a national interest waiver without pointing to how we erred in our previous decision as a matter of law or policy. *See 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). The purpose of a motion to reconsider is to show error in the most recent prior decision, not to re-adjudicate the petition anew. *See id.*

Because 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 or that it was incorrect based on the record at the time, the motion to reconsider will be dismissed. 8 C.F.R. § 103.5(a)(3)-(4).

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.