U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38069416

Date: MAY 06, 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 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 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 the Petitioner's appeal and a subsequent motion. 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). 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).

In our decision dismissing the previous motion, we indicated that the Petitioner had not presented new facts or evidence demonstrating the national importance of his proposed endeavor under the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). We also explained that the Petitioner had not shown that our determination regarding the national importance of his proposed endeavor was incorrect based on the evidence in the record.

The Petitioner maintains on motion that he meets the first prong of the *Dhanasar* framework. Regarding his motion to reopen, it does not offer new facts and is not supported by any documentary evidence. Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision.

On motion to reconsider, the Petitioner contends that we misinterpreted "key elements surrounding the Petitioner's proposed endeavor as a Chief Executive in the finance sector and the substantial contributions his work is projected to make within and beyond the industry." He repeats earlier arguments that his proposed endeavor offers economic growth and impact through trade expansion, cost-effective healthcare management solutions, and job creation. The Petitioner further claims that his undertaking plays a role in alleviating blood product shortages, contributes to state and federal tax revenue, and aligns with federal initiatives relating to economic growth and healthcare efficiency, but he has not established that our latest decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record. Specifically, the Petitioner has not demonstrated that we erred in concluding he had not shown that the potential prospective impact of his proposed endeavor stands to offer broader implications in his field or to generate substantial positive economic effects. *Id.* at 889-90.

The Petitioner also points to his "advanced degree" and "extensive expertise" in the field of finance. The Petitioner's education, skills, and knowledge in his field relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposed to undertake has national importance under *Dhanasar's* first prong.

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 his current motion 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.

The Petitioner has not presented new facts or evidence relevant to our latest decision establishing his eligibility, nor has he shown that our decision was based on an incorrect application of law or policy at the time we issued our decision. 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.