U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37892171

Date: MAY. 15, 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 or 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).

Service Center Operations (SCOPS) denied the petition, concluding 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, motion to reconsider, combined motion to reopen and reconsider, and motion to reopen. The matter is now before us on motion to reopen.

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, the Petitioner submits three presidential executive orders indicating the administration's intent to "support the responsible growth and use of digital assets, blockchain technology, and related technologies," establish "the President's Council of Advisors on Science and Technology to unite the brightest minds from academia, industry, and government," and revoke "certain existing AI policies and directives that act as barriers to American AI innovation." The Petitioner also submits the Cybersecurity and Infrastructure Security Agency's strategic plan for fiscal year 2024-2026; a document from the Department of Commerce presenting its cybersecurity goals; and articles addressing the need for and a shortage of cybersecurity experts. The Petitioner asserts the documents submitted on motion establish that his endeavor, which will provide "IT [g]overnance and

[c]ybersecurity services generates national implications . . . and produces substantial positive economic effects.

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). Therefore, we will only consider new evidence to the extent that it pertains to our latest decision dismissing the motion to reopen. In the Petitioner's previous motion to reopen, we reviewed the procedural history, including the bases for dismissal of the Petitioner's appeal, then dismissal of the Petitioner's subsequent motion to reconsider, and combined motion to reopen and reconsider. We found that though the Petitioner submitted additional documentation on motion to reopen, he had not submitted any new facts related to establishing we erred in dismissing the prior motion due to material change.

Similarly, here, the Petitioner has submitted new documentation on instant motion but has not provided new facts to establish that we erred in dismissing the prior motion. And because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

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.