U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42985766

Date: MAY 19, 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 immigrant classification as either 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 eligibility for the underlying immigrant classification, or that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. SCOPS also dismissed a subsequent combined motion to reopen and reconsider on procedural grounds, which the Petitioner appealed. We withdrew SCOPS' combined motion decision and remanded the matter. SCOPS again dismissed the combined motion, this time on substantive grounds. We dismissed the Petitioner's second appeal, as well as a subsequent combined motion to reopen and reconsider, concluding that the Petitioner did not demonstrate that the proposed endeavor would have national importance, as required by the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). We then dismissed multiple motions to reopen due to timeliness issues, as well as because they did not provide new facts, supported by documentary evidence, that established we erred in dismissing the prior motions. The matter is now before us again on a motion to 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 motion.

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 "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii).

In our last dismissal of the Petitioner's motion to reopen on February 20, 2026, we concluded that the Petitioner submitted substantively identical documentation to what was submitted with his prior motion to reopen. We noted that he revisited explanations for his filing timeline and why prior motions

were untimely, as well as assertions concerning his proposed endeavor, but did not identify new facts supported by documentary evidence. Accordingly, we dismissed the motion.

In the Petitioner's motion to reconsider currently before us, he argues that we erroneously concluded that the "new facts described in the Brief Statement regarding the basis of the motion to reopen . . . had already been submitted." He contends that "this is the first time that a detailed description of the Business Process Reengineering service, along with documentary evidence of the related laws (The Government Performance and Results Act of 1993 and The Clinger-Cohen Act of 1996), has been presented to the AAO." He avers that his brief demonstrated how his company [redacted] reengineering service impacts a matter that a government entity has described as having national importance or is the subject of national initiatives. The Petitioner also argues that he resubmitted documentation that was previously filed because we did not consider it in our October 21, 2025, decision, after having concluded it had been improperly submitted after he filed his motion to reopen.[1]

The Petitioner has not established that our previous dismissal of his motion to reopen on February 20, 2026, was based on an incorrect application of law or policy at the time we issued our decision. A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). As stated above, 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, in that decision, we only considered new evidence to the extent that it pertained to the prior decision, which in this case was our October 21, 2025, decision dismissing the previous motion to reopen.

In our October 21, 2025, decision, we observed that the Petitioner submitted copies of evidence concerning his proposed endeavor already present in the record and that he reiterated earlier arguments attesting to the endeavor's national importance. We determined that these resubmitted documents did not constitute evidence of new facts. *See* 8 C.F.R. § 103.5(a)(2). We also stated that we would not address additional documentation submitted subsequent to filing his motion to reopen because it was not properly filed in accordance with the Form I-290B instructions and regulations at 8 C.F.R. §§ 103.2(a)(1), (b)(1).

Although the Petitioner argues that we erred in concluding that the "new facts" described in his last motion to reopen were submitted previously, he does not explain how these documents reveal facts that could be considered *new*, rather than cumulative information, under 8 C.F.R. § 103.5(a)(2) or how these documents otherwise overcome our prior dismissal. Additionally, while the Petitioner claims that the documents show how his endeavor impacts a matter that a government entity has described as having national importance or is the subject of national initiatives, a motion to reconsider is not a vehicle for presenting legal arguments that could have been raised earlier in the proceeding. *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 presenting on appeal and seek reconsideration by generally alleging error in the prior Board decision"); *see also INS v. Doherty*, 502 U.S. 314, 323 (1992) (citing *INS v. Abudu*, 485 U.S. 94 (1988)) ("Motions for reopening of immigration proceedings

[1] The I-290B instructions state that, "For motions, you must file any brief and/or additional evidence together with Form I-290B." *See* USCIS Form I-290B, Instructions for Notice of Appeal or Motion, at 6, https://www.uscis.gov/i-290b (rev. 05/31/24).

are disfavored for the same reasons as are petitions for rehearing and motions for a new trial on the basis of newly discovered evidence."). As noted above, the purpose of a motion to reconsider is to show 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 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, his motion to reconsider must be dismissed. 8 C.F.R. § 103.5(a)(4).

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.