U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38553342

Date: MAY 20, 2025

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a training and development specialist, seeks employment-based second preference (EB-2) classification as either a member of the professions holding an advanced degree or as an individual of exceptional ability, 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).

The Director of the Texas Service Center denied the petition, concluding that 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 and two subsequent combined motions to reopen and reconsider. The matter is now before us for a third time 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). 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 states he is submitting a new business plan. However, the business plan submitted is dated 2024 which is before our prior decision on the Petitioner's second combined motions to reopen and reconsider was issued on March 11, 2025. The Petitioner also submits copies of other evidence previously submitted and considered. The Petitioner reasserts his claim that he meets the three prongs of the national interest waiver analytical framework of *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). However, the Petitioner does not state new facts supported by documentary evidence that was not previously considered in our prior decisions.

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.

On motion, the Petitioner asserts our prior decision concluded his proposed endeavor did not have national importance "focusing on its geographic limitation and direct benefit to individual clients" when *Matter of Dhanasar* recognizes that regional endeavors can qualify. Our prior decision contains no such erroneous focus. Rather, our prior decision explained that the Petitioner did not establish new facts that would warrant reopening of the proceeding and did not demonstrate that our prior decision on his first combined motions to reopen and reconsider was based on an incorrect application of law or policy. In fact, in our prior decision on appeal, we explained that the Petitioner did not show that benefits to the regional economy resulting from his proposed endeavor would constitute substantial positive economic effects as contemplated in *Matter of Dhanasar*.

The Petitioner also claims we failed to apply the preponderance of the evidence standard by not considering all the evidence he submitted. However, our prior decision on appeal reviewed the record de novo and explained why the Petitioner failed to establish his eligibility by a preponderance of the evidence. In addition, the Petitioner cites no portion of our prior decision on his second combined motions to reopen and reconsider that did not evaluate the relevant evidence under the preponderance of the evidence standard.

The Petitioner has submitted copies of evidence previously submitted and considered but has not stated new facts supported by additional evidence and has not established his eligibility. On motion to reconsider, 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. 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.