U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38594305

Date: MAY 27, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a general and operations manager, 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 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 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 rejected the Petitioner's appeal as untimely filed and dismissed a subsequent motion. Upon review, we determined the reject notice was issued in error. We reopened the matter on a Service motion under 8 C.F.R. § 103.5(a)(5) and dismissed the appeal, finding that the Petitioner had not established the national importance of his proposed endeavor. We dismissed the Petitioner's subsequent combined motions to reopen and reconsider. The matter is now before us a second 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.

The record reflects that the Petitioner intends to open his own logistics management company. In our prior decision on appeal, we concluded although the Petitioner's proposed endeavor had substantial merit, he did not establish its national importance. Although the Petitioner claimed that immigrant entrepreneurship and small businesses are nationally important, he did not provide sufficient evidence of the national importance of his particular endeavor. Furthermore, the submitted evidence did not sufficiently explain the basis for financial projections or growth in employees such that the proposed endeavor would have substantial economic benefits. We additionally determined that the record did not show that the Petitioner's endeavor would have a broader impact on the logistics management industry. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889-90 (AAO 2016) (discussing factors to assess national importance).

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). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. 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).

In our prior decision on the Petitioner's first combined motions to reopen and reconsider, we dismissed his motion to reopen because he did not state new facts supported by documentary evidence. With the present motion, the Petitioner submits copies of documents previously submitted which he describes as "clarified and newly organized evidence." The Petitioner again asserts that his proposed endeavor has national importance because it aligns with U.S. national policy directives and contributes to small business performance, transportation efficiency, and job generation. The Petitioner does not state any new facts supported by documentary evidence that was not previously considered. Consequently, the Petitioner's submission does not meet the requirements for a motion to reopen.

In our prior decision on the Petitioner's first combined motions, we determined the Petitioner did not specifically identify any erroneous application or law or policy in our prior decision on appeal. On his present motion to reconsider, the Petitioner asserts we disregarded evidence demonstrating the national importance of his proposed endeavor. However, the Petitioner cites evidence that was previously considered in our prior decisions such as his business plan and articles on logistics services.

The Petitioner's present motion does not identify any erroneous application of law or policy in our prior decision dismissing his prior motion to reconsider. Consequently, his submission does not meet the requirements for a motion to reconsider. His contentions in the current motion repeat facts and issues we considered in our prior 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.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.