U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37890561

Date: MAY 29, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a lawyer and entrepreneur, 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)

Service Center Operations (SCOPS) denied the petition, concluding that though the Petitioner established his proposed endeavor has substantial merit, he did not demonstrate its national importance. We dismissed a subsequent appeal, concurring with SCOPS that the Petitioner had not demonstrated the national importance of his proposed endeavor, and reserving our opinion as to whether the record establishes the remaining requirements of the analytical framework of *Matter of Dhanasar,* 26 I&N Dec. 884 (AAO 2016). We dismissed a subsequent combined motion to reopen and reconsider, finding the Petitioner did not establish new facts overcoming our prior determination or that our prior determination was based on an incorrect application of law or policy at the time of issuance. The matter is now before us on second 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). 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 to reopen, the Petitioner submits a bilateral relations fact sheet pertaining to the United States and Brazil and an article highlighting developments in Brazil's international trade. These submitted documents, however, do not reference the Petitioner's proposed endeavor, demonstrate its prospective impact and national importance, or present new facts relevant to the issues raised in our dismissal of his prior motions to reopen and reconsider. Here, the Petitioner has not provided new

facts to establish that we erred in dismissing the prior motion. Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision.

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 contests the correctness of our prior decision. In support of the instant motion, the Petitioner contends his prior combined motion was erroneously dismissed as the proper preponderance of the evidence standard was not applied. Similarly, the Petitioner contends we erred in failing to assign the appropriate weight to the submitted evidence. However, the Petitioner does not detail which evidentiary documents were improperly weighted; rather, the Petitioner generally contends the record evidence is more than sufficient to demonstrate the national importance of his endeavor.

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). In our prior decision, we considered the Petitioner's claims that his endeavor provides both entrepreneurship and a small business, in an area that relies on small businesses and at a time during which entrepreneurship appears to be dwindling. We also reviewed the Petitioner's assertions that his proposed endeavor "creates financial bridges, and prompts economic development enhancing and improving the functionality and monetary output of the nation's economy." However, we determined the record "still [did] not corroborate the claimed job and revenue projections for the proposed endeavor or otherwise establish the Petitioner's own proposed endeavor would have substantial positive economic effects or has potential to employ U.S. workers at a level indicating its national significance." We also specified that, in our appeal decision, we had not limited our *Dhanasar* prong one analysis to geographic limitations, as we explicitly considered the broader implications of the proposed endeavor, including impact on the field on a level of national importance and the significant potential to employ U.S. workers. On instant motion, the Petitioner again asserts we erroneously engaged in limited *Dhanasar* prong one analysis in our prior motion decision as it "erroneously equates the lack of geographical implication and the lack of potential to employ U.S. workers as failure to show national importance." However, as discussed, that decision specifically explained the prong one analysis includes consideration not only of a proposed endeavor's geographical implications, but also "the type of broader implications contemplated by the first *Dhanasar* prong, such as the work extending beyond the Petitioner's company's individual clients to impact his field more broadly on a level commensurate with national importance, or that it has significant potential to employ U.S. workers." On current motion, the Petitioner also reiterates his claim that the proposed endeavor will positively contribute to the economy and "create[] financial bridges and prompt[] economic development to enhance and improve the functionality and monetary output of the nation's economy." However, the Petitioner does not address or overcome our previous finding that the record did not establish the endeavor would have substantial positive economic effects, significant potential to employ U.S. workers, or corroborate the stated economic projections. Overall, the Petitioner's contentions in the instant motion reargues facts and issues we have already considered

in our previous decision. *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"). Though the Petitioner again claims his endeavor will have national implications, he has not demonstrated we incorrectly applied laws and policies or otherwise erred in our prior analysis of the documentary evidence. 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 for the reasons outlined above. Further, 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.