U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34944768

Date: NOV. 20, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a finance and insurance manager, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree and a national interest waiver of the job offer requirement attached to this classification. See section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Workers (national interest waiver), concluding the Petitioner had not established a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We dismissed the appeal. The matter is now before us as a motion to reconsider. 8 C.F.R. § 103.5(a)(3).

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 reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(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).

In our decision on appeal, we concluded that the Petitioner's proposed endeavor lacked specificity. In Dhanasar, we held that a petitioner must identify "the specific endeavor that the foreign national proposes to undertake." Matter of Dhanasar, 26 I&N Dec. 884, 889 (AAO 2016). The Petitioner described his endeavor as continuing his career as a financial and insurance manager helping U.S. companies implement process improvements and financial management standards to achieve corporate goals and revenue growth and creating mechanisms to allow intelligent decision-making on how and where to invest. We noted that his proposed endeavor as described indicated he would act in various and wide-ranging capacities, which included optimizing and supervising companies' financial operations, developing and implementing financial automation processes, providing financial management, working as an insurance manager, developing new research and studies on business and

market trends, providing professional training, events, and classes, and acting as a consultant for companies, but concluded that he did not explain the logistics of his various roles. On motion, the Petitioner explains that his proposed endeavor is flexible, which allows him to work as a consultant and provide services to companies. The Petitioner's explanation does not add specificity to his proposed endeavor and the purpose of a national interest waiver is not to enable a petitioner to engage in a U.S. job search. As we noted on appeal, a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation. See generally 6 USCIS Policy Manual F.5(D)(1), https://www.uscis.gov/policymanual (providing, as guidance, the term "endeavor" is more specific than the general occupation; a petitioner should offer details not only as to what the occupation normally involves, but what types of work the person proposes to undertake specifically within that occupation).

On appeal, we also concluded that the Petitioner had not established that his proposed endeavor was nationally important. On motion, the Petitioner asserts that we overlooked his evidence, specifically his recommendation letters, industry reports, expert testimony, and media articles. However, the record does not support the Petitioner's assertions. In our appeal decision, we reviewed the Petitioner's articles, reports, U.S government web pages and concluded they did not address the Petitioner's specific proposed endeavor or show that his proposed endeavor would broadly impact the finance and insurance field as contemplated in Dhanasar. On motion, the Petitioner again discusses data on the impact of the insurance and finance industry. However, we explained that in determining national importance, the relevant question is not the importance of the field, industry, or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." Matter of Dhanasar, 26 I&N Dec. at 889. We also addressed the Petitioner's recommendation letters from former colleagues, but they also discussed the importance of the finance and insurance fields and declared the Petitioner's abilities would greatly enhance those fields, without illustrating how the services he intended to provide individual companies would have impact on the relevant fields at a level commensurate with national importance. We also concluded the Petitioner's expert opinion letter likewise did not explain how the Petitioner's proposed endeavor would impact the finance and insurance fields beyond the individual corporations the Petitioner would work for or have an economic impact on par with national importance. See id. at 889-890 (explaining that "we look for broader implications" of the proposed endeavor and that "[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field" or "has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area").

The Petitioner also argues that we did not apply the preponderance of the evidence standard and erred by not recognizing the broader implications of his work and its potential positive economic effects. However, the Petitioner does not explain how we applied the incorrect standard in concluding he did not establish the national importance of his endeavor, and his motion reasserts arguments already addressed on appeal. For example, the Petitioner highlights the financial impact he had at his former employers as a financial manager, referring us to his employment records demonstrating his successes, and asserts he will replicate the same financial results at U.S. companies through his outstanding work. He also discusses his work as an insurance broker where he, for example, negotiated two large insurance contracts and increased the coverage of employees. He says he trained 18 underperforming employees and some received promotions after the training sessions. He also notes how he updated

and improved guidebooks. He asserts his skills will, for example, streamline financial processing and enhance business processing for U.S. companies translating to the greater U.S. economy. He adds that his knowledge will undoubtedly advance U.S. government initiatives and spread financial education among U.S. citizens. However, as we explained on appeal, the Petitioner's arguments for the national importance of his proposed endeavor rested on examples of his past performance and did not explain how his specific endeavor would have a broader impact on the finance and insurance industries beyond the impact on his partner companies. Moreover, the Petitioner's reliance on his past experience and claimed knowledge, skills, and abilities is misplaced, as they relate to the second prong of the Dhanasar framework, which looks at whether the individual is well-positioned to advance the proposed endeavor and "shifts the focus from the proposed endeavor to the foreign national." Id. at 890. The issue here is whether the Petitioner's proposed endeavor has national importance under Dhanasar*'s* first prong. While the Petitioner makes general claims, for example, that his endeavor will advance U.S. government initiatives, streamline financial processing for U.S. companies and generate substantial economic impact by creating hundreds of jobs, as we discussed on appeal, he does not demonstrate with evidence in the record how his financial and insurance manager services would have a broader impact in the industry or would have significant potential to employ U.S. workers or otherwise offer substantial positive economic effects for our nation. Without corroborating evidence, the record does not sufficiently demonstrate benefits to the U.S. regional or national economy resulting from his services or position that would reach the level of "substantial positive economic effects" as contemplated by Dhanasar. Id. at 890.

The Petitioner has not established that we erred as a matter of law or policy in our prior decision or that the decision was incorrect based on the evidence in the record of proceedings at the time. Accordingly, he has not satisfied the requirements for a motion to reconsider. See 8 C.F.R. § 103.5(a)(3).[1] Consequently, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.

[1] The Petitioner submitted an economic impact analysis with his motion to reconsider. The motion to reconsider must establish that our last decision was incorrect based on the evidence in the record of proceeding at the time of the decision to be reconsidered. 8 C.F.R. § 103.5(a)(3). Therefore, we will not consider new facts or evidence in a motion to reconsider.