U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35276678

Date: NOV. 26, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a human rights attorney, seeks employment-based second preference (EB-2) immigrant classification as an advanced degree professional 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).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for EB-2 classification as an individual of exceptional ability, but 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 the Petitioner's subsequent appeal. The matter is now before us 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 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.

In our prior decision, we determined the Petitioner was ineligible for three reasons. First, he did not submit the Form ETA-750B Statement of Qualifications of Alien (or sections J, K, and L of ETA Form 9089 Application for Permanent Employment Certification), as the regulation at 8 C.F.R. § 204.5(k)(4)(ii) requires. Second, the Petitioner did not sufficiently articulate his proposed endeavor. Third, the Petitioner did not establish the substantial merit and national importance of his proposed endeavor and did not meet the first prong of the analytical framework in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016), to adjudicate national interest waiver petitions.

On motion, the Petitioner summarizes his achievements, skills, and experience. The Petitioner expresses his "[i]ntent to register and establish legal practice and/or Partnership in United States," but does not submit a statement detailing his proposed endeavor. Rather, he submits evidence of his past

work in Pakistan. The Petitioner does not identify any incorrect application of law or policy in our prior decision on appeal. For example, the Petitioner does not specify any portion of our prior decision that misapplied the Act, regulations or precedent decisions. Without any identification of error in our prior decision, the Petitioner's submission does not meet the requirements for a motion to reconsider. Consequently, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.