U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34600793

Date: OCT. 15, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree 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 did not establish their eligibility for the requested national interest waiver. We dismissed a subsequent appeal. The matter is now before us 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 combined motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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).

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

In our prior decision, we agreed with the Director that the Petitioner did not meet the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). We explained that, although upon de novo review, we determined that the Petitioner's endeavor of continuing his work as a pilot and pilot instructor is substantially meritorious, we agreed with the Director that the record did not establish his endeavor is nationally important as contemplated in

Dhanasar. *Id.* And, contrary to the Petitioner's assertions, we determined that the Director did properly consider the evidence under a preponderance of the evidence standard.

We also evaluated the Petitioner's claims and evidence establishing the importance of the airline industry, including various articles and reports, and explained that, although they supported the substantial merit of his endeavor, they did not discuss his specific endeavor and therefore did not establish the prospective impact of his endeavor would rise to the level of national importance as contemplated in *Dhanasar*. *See id.* (explaining the determination of national importance "focuses on the specific endeavor that the foreign national proposes to undertake"). And, while we acknowledged the Petitioner's experience within his field, we explained that these letters and his past accomplishments did not establish the broader implications or national importance of his proposed endeavor. Additionally, we addressed the documentation submitted regarding the airline pilot shortage, and his assertion that he would alleviate this shortage through his proposed training programs. However, we explained that a labor shortage in a field alone does not generally render a proposed endeavor nationally important under the *Dhanasar* framework, because labor shortages are addressed through the labor certification process. We also determined that, like the petitioner's teaching activities in *Dhanasar*, the Petitioner's training did not impact the field more broadly at a level commensurate with national important.

Moreover, we agreed with the Director that the record did not establish the Petitioner's endeavor would result in substantial positive economic effects commensurate with national importance. *See Dhanasar* at 890. We addressed the Petitioner's contentions on appeal and specific references to statistics relating to the economic importance of the airline industry, but we explained that he did not establish that his specific endeavor would result in economic effects commensurate with national importance.

On motion, the Petitioner submits a brief with no new evidence and asserts that his motion to reconsider is predicated on our "clear misunderstanding of critical elements surrounding [his] proposed endeavor, and the significant contributions his work is projected to make within the aviation sector and beyond"; however, he does not discuss how we misunderstood the record, or address the conclusions made in our appellate decision regarding the limited implications of his proposed endeavor. Instead, he continues to rely on the same claims previously addressed in our appellate decision. Specifically, that his endeavor will result in economic impact and drive growth in the aviation industry, address the pilot shortage, and "improve training efficiency and enhance overall operational safety, thereby fostering significant economic benefits." For example, the Petitioner refers to his business plan and his intention to develop multi-crew operations (MCO) and multi-crew cooperation (MCC) courses, and asserts that by implementing these programs, he will facilitate rapid and efficient training for low-experienced pilots, resulting in substantial economic impacts and the creation of new jobs in the aviation sector. And the Petitioner asserts that his endeavor aligns closely with federal initiatives aimed at strengthening the aviation industry and maintaining safe and efficient travel. Yet, we addressed these claims in our decision and explained that the record did not establish the Petitioner's training programs would impact his field at a level commensurate with national importance or otherwise result in substantial economic effects contemplated in *Dhanasar*. The Petitioner's motion does not address these conclusions nor establish that they are erroneous.

For the reasons discussed, we conclude that the Petitioner has not established new facts relevant to our appellate decision that would warrant reopening of the proceedings, nor has he shown that we erred

as a matter of law or policy. Our prior decision properly analyzed the Petitioner's assertions, which he again makes on motion. The Petitioner cannot meet the requirements of a motion to reconsider by broadly disagreeing with our conclusions; the motion must demonstrate how we erred as a matter of law or policy. *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party seeks reconsideration by generally alleging error in the prior decision). Consequently, we have no basis for reopening or reconsideration of our decision, and the combined 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.