U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39930414

Date: OCT. 17, 2025

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 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).

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish eligibility for a national interest waiver. We dismissed a subsequent appeal and four combined motions to reopen and reconsider. The matter is now before us on a fifth combined motion 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 motion.

A motion to reopen must state new facts and be supported by affidavits or other 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). 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 to reopen, as with his previous motions, the Petitioner contests the correctness of our prior decision. Although he states that his motion is based on "new material evidence," he submits documentation previously submitted. He reiterates that his proposed endeavor to operate his consultancy company has national importance, that he is well-positioned to advance the endeavor, and that waiving the job offer requirement is in the national interest. The Petitioner, however, does not state new facts supported by documentary evidence to address our prior decision to dismiss his motion, which we dismissed because it did not meet the requirements of a motion to reopen. Here, again, the Petitioner has not met the requirements for a motion to reopen. 8 C.F.R. § 103.5(a)(3). Accordingly, the motion to reopen will be dismissed. 8 C.F.R. § 103.5(a)(4).

Similarly, on motion to reconsider, the Petitioner expresses disagreement with our previous decision to dismiss his motion. Although he states that his motion is based on "legal and factual errors in the prior decision," he does not identify any erroneous application of law or policy to demonstrate that our decision was incorrect at the time it was issued. He revisits earlier arguments and points to evidence in the record, which we previously analyzed and discussed in our dismissals of his appeal and motions, but he does not address the fact that we dismissed his prior motion to reconsider because it did not meet the requirements for a motion to reconsider. Here, again, the Petitioner has not met the requirements for a motion to reconsider. 8 C.F.R. § 103.5(a)(3). Accordingly, the motion to reopen will be dismissed. 8 C.F.R. § 103.5(a)(4).

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). The Petitioner's contentions in his current motion merely reargue facts and issues we have already considered in our previous 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.

NOTICE: Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.