U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39971907

Date: OCT. 21, 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 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).

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not establish eligibility for the underlying immigrant classification, or that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. SCOPS also dismissed a subsequent combined motion to reopen and motion to reconsider. The Petitioner appealed SCOPS' combined motion decision. We withdrew SCOPS' combined motion decision and we remanded the matter. SCOPS again dismissed the combined motion, and we dismissed the Petitioner's second appeal and a subsequent combined motion to reopen and motion to reconsider, concluding that the Petitioner did not demonstrate that the proposed endeavor would have national importance, as required by the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). We then dismissed several motions due to timeliness issues. We dismissed the Petitioner's most recent motion to reopen because it did not provide new facts, supported by documentary evidence, that establish we erred by dismissing the preceding motion as untimely. The matter is now before us on motion to reopen.

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 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).

We incorporate by reference our analysis in our prior decisions. By way of summation, and in relevant part, on October 2, 2024, we dismissed the Petitioner's motion to reopen that the designated U.S. Citizenship and Immigration Services (USCIS) filing location received on August 28, 2024, because

that receipt date is more than 33 days after the date of our preceding decision in the matter, July 16, 2024. 8 C.F.R. §§ 103.5(a)(1), 103.8(b). On February 13, 2025, we dismissed the Petitioner's subsequent motion to reopen because it did not establish that his delay in filing the preceding motion to reopen was both reasonable and beyond his control, citing 8 C.F.R. §§ 103.2(a)(7), 103.5(a)(1) (providing that rejected benefit requests do not retain filing dates, and that USCIS may excuse an untimely motion to reopen as a matter of discretion if the delay is both reasonable and beyond the petitioner's control, respectively).

On April 23, 2025, we dismissed the Petitioner's motion to reopen that the designated USCIS filing location received on March 27, 2025, because that receipt date is more than 33 days after the date of our prior decision, February 13, 2025, again citing 8 C.F.R. §§ 103.5(a)(1), 103.8(b). The Petitioner then submitted another motion to reopen. In that motion, he asserted that USCIS erroneously rejected a motion he submitted between our decision dated February 13, 2025, and the motion that the designated USCIS filing location received on March 27, 2025, characterizing the rejection basis as USCIS' error regarding the Petitioner's payment. However, we dismissed that motion to reopen because the Petitioner did not support his assertions with documentary evidence, as required by 8 C.F.R. § 103.5(a)(2).

The Petitioner now submits another motion to reopen. With that motion, the Petitioner resubmits copies of evidence already in the record, including excerpts from a business plan, excerpts from a regional director agreement between the Petitioner and the [redacted] and excerpts from an [redacted] reference book. Because the record already contains copies of the evidence the Petitioner resubmits on motion to reopen, that is not documentary evidence of new facts. *See* 8 C.F.R. § 103.5(a)(2).

After the Petitioner filed the instant motion to reopen, he subsequently submitted documents that he describes as "a copy of the fifth motion filing including a copy of the Form G-1450, a copy of the brief statement and a copy of the erroneously rejected motion related to this matter."

The Form I-290B, Notice of Appeal or Motion, instructions specifically state, "Unlike an appeal, you must submit any brief and/or additional evidence with your motion." Every form submitted to USCIS must comply with the form instructions. 8 C.F.R. §§ 103.2(a)(1), 103.2(b)(1). We need not address the information the Petitioner improperly submitted after he filed the instant motion to reopen because it does not comply with the Form I-290B instructions and 8 C.F.R. §§ 103.2(a)(1), 103.2(b)(1).

Because the Petitioner has not established a new fact, supported by documentary evidence submitted at the time the Petitioner filed the motion that would warrant reopening the proceeding, we have no basis to reopen our prior decision; therefore, we will not re-adjudicate the petition anew. 8 C.F.R. § 103.5(a)(2); *see also* 8 C.F.R. §§ 103.2(a)(1), 103.2(b)(1). Accordingly, the motion to reopen will be dismissed. 8 C.F.R. § 103.5(a)(4).

Despite the Petitioner not establishing a new fact, supported by documentary evidence submitted at the time the Petitioner filed the motion, we reviewed the record in its entirety. We note that, even if the Petitioner had submitted the above-referenced evidence at the time he filed the instant motion, we nevertheless would dismiss the motion because, as we explained in our prior decisions, the record still

would not demonstrate that the proposed endeavor would have national importance, which is dispositive. *See Matter of Dhanasar*, 26 I&N Dec. at 889-90.

ORDER: The motion to reopen 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.