U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34245299

Date: OCT. 31, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, an entrepreneur and information technology manager, 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).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a professional holding an advanced degree, 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 a subsequent appeal. The matter is now before us on 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.

On motion to reconsider, the Petitioner contests the correctness of our prior decision. In support of the motion, the Petitioner asserts, "[t]he record clearly establishes the potential prospective impact of the endeavor by its implications on the field of tracking technologies. . . ." The Petitioner asks for reconsideration of the decision as a whole and does not specifically identify on motion, how we may have incorrectly applied law or policy in our prior decision. *See* 8 C.F.R. § 103.5(a)(1)(ii) (limiting the scope of a motion to the latest decision). For example, the Petitioner asserts, "the record established the proposed endeavor's impact on the tracking technologies field." In our appellate decision, we acknowledged the Petitioner's "intention to provide valuable business consulting and tracking technology services. . . ." However, we concluded the Petitioner had not shown "their proposed endeavor stands to sufficiently extend beyond their company and its clientele. . . ." Additionally, the Petitioner again states that his proposed endeavor will address a driver shortage.

This issue was addressed in the appellate decision where we state, "[t]he Petitioner has not established that the Petitioner's proposed endeavor stands to impact or significantly reduce these claimed national shortages. Moreover, shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process."

We addressed these, and the other assertions made on motion in our appellate decision. The Petitioner reargues the same or similar assertions but does not identify any specific error of law or fact. Nor does the Petitioner establish that our prior decision did not follow the regulations and policy guidance. Therefore, the Petitioner has not established proper grounds for reconsideration. 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 may submit, in essence, the same brief and seek reconsideration by generally alleging error in the prior decision). The Petitioner bears the burden to demonstrate eligibility or, in this case, the applicability of the law or policy he asserts we incorrectly applied in the latest decision. 8 C.F.R. § 103.5(a)(3); *see also* 8 C.F.R. § 103.5(a)(1)(ii); *Matter of Chawathe*, 25 I&N Dec. at 375-76. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.