U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 44023268

Date: SEP. 1, 2026

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).

U.S. Citizenship and Immigration Services (USCIS) denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established 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 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 motions.

In dismissing the appeal, we agreed with USCIS that the Petitioner met the substantial merit element of the first prong under *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). But the Petitioner did not demonstrate that the potential prospective impact of the endeavor rises to the level of national importance. We noted the Petitioner had not demonstrated that his specific work offers broader implications in his field or industry or substantial positive economic effects for our nation to rise to the level of national importance. That is, the Petitioner had not established that his proposed endeavor sufficiently extends beyond his employer and his future projects to impact the cybersecurity field, the information technology industry or U.S. technological interests more broadly at a level commensurate with national importance.

A motion to reopen must state new facts and be supported by 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner contends the matter should be reopened due to newly submitted evidence. Specifically, the Petitioner submits a printout from the U.S. Cybersecurity & Infrastructure Security Agency about a cybersecurity advisory. Although the Petitioner provides documentation about a new government initiative relating to cybersecurity, the Petitioner has not established that this documentation specifically concerns his proposed endeavor. Moreover, the evidence does not establish national importance as it does not show that his proposed endeavor will have a broader impact on the field, a significant potential to employ U.S. workers, or otherwise offers substantial positive economic effects for our nation as contemplated by *Dhanasar*. *Matter of Dhanasar*, 26 I&N Dec. at 889. As noted in our previous decision, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on "the specific endeavor that the foreign national proposes to undertake." *Id.*

In addition, the Petitioner references documents previously included in the record, which we have previously considered. Moreover, we noted in our previous decision that [redacted] and [redacted] both materialized after the filing of the petition and therefore would not establish the Petitioner's eligibility at the time of filing. We also noted that a petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998).

The Petitioner also contests the correctness of our prior decision. The Petitioner asserts that "the record did address job creation and economic impact but did so in the context of cybersecurity's ripple effects rather than through narrow headcount projection" and references his professional plan. In addition, the Petitioner states that the record included "U.S. strategic interests" in support of national importance. Further, he proceeds to assert that his "proposed endeavor has the potential to advance Secure-by-Design methodologies, strengthen open-source software security, improve the security of interconnected software ecosystems, and support nationally significant cybersecurity and critical infrastructure objectives." However, as discussed in our dismissal of the appeal, the Petitioner has not provided corroborating evidence to support his claims of his proposed endeavor's substantial economic benefits to the United States or the extent to which other organizations throughout the field stand to use his specific cybersecurity services. Thus, the Petitioner has not established that we erred as a matter of law or policy in our prior decision or that the decision was incorrect based on the evidence in the record of proceedings at the time. Accordingly, he has not satisfied the requirements for a motion to reconsider.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. 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 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.

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.