U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33670943

Date: SEP. 24, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a chief executive/entrepreneur, 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 member of the professions holding an advanced degree, but 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 motion.

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). 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.

In our prior decision, which we hereby incorporate by reference, we determined that the record supports the Director's finding that the Petitioner qualifies as an advanced degree professional. We also determined that the Petitioner's proposed endeavor has substantial merit. However, the Petitioner did not establish that the proposed endeavor has national importance, and we therefore declined to reach and reserved the Petitioner's arguments related to whether he is well positioned to advance the proposed endeavor and whether a waiver of the job offer/labor certification requirements would benefit the United States.

On motion, the Petitioner submits a brief and a copy of our prior decision. He claims that we missed critical elements of his proposed endeavor with [redacted] a company he plans to start which is dedicated to developing a digital learning platform for pharmaceutical sales professionals. He refers

to his business plan in asserting that his company will inject a formidable stream of resources into the national economy. He mentions that he is crafting a future where specialized knowledge in ophthalmology-related pharmaceutical products will support economic growth, and ensure better health outcomes, healthcare efficiency, and patient safety. He states that his proposed endeavor transcends the traditional bounds of pharmaceutical training; the proposed endeavor aligns with federal initiatives including enhancing healthcare delivery by increasing the professional capabilities of the U.S. pharmaceutical sales force, improving pharmaceutical sales, supporting economic recovery in healthcare sectors, and fostering job creation; and his proposed endeavor address national shortages in specialized training for pharmaceutical sales in the field of ophthalmology. The Petitioner points to his business plan which projects future employment of 28 individuals and revenues exceeding one million dollars, and letters from industry experts and stakeholders underscoring the national significance of enhancing sales strategies through specialized training modules offered by [redacted] Finally, the Petitioner states that his specialized knowledge in business administration and digital education will contribute to the proposed endeavor to meet urgent national needs, and his background, including over 20 years in the pharmaceutical sector, equips him to enhance the pharmaceutical sales workforce.

On motion, the Petitioner has made the same and similar arguments that he made on appeal. We properly evaluated the record before us in determining the Petitioner did not establish the proposed endeavor has national importance. In our prior decision, we detailed and discussed his proposed endeavor as the chief executive of [redacted] We reviewed his business plan and the projected number of employees over five years. However, he has not addressed our finding that he did not elaborate on these projections or provide evidence supporting the need for these additional employees. We discussed his projected revenue over five years, but he has not addressed our determination that the projections are not supported by details showing their basis or an explanation of how they will be achieved. We reviewed the letters of support discussing his business capabilities and pharmaceutical sales experience, and noted his skills, knowledge, and prior work in his field relate to whether he is well positioned to advance the proposed endeavor. He does not address this conclusion. We analyzed the expert opinion letter, but the Petitioner does not rebut our determination that it lacks sufficient information and explanation to show that his specific proposed work offers broader implications in his industry or substantial positive economic effects for our nation that are indicative of its national importance.

Furthermore, we previously addressed his argument of a national shortage, but on motion he has not established that his proposed endeavor stands to impact or significantly reduce the claimed national shortage and that shortages of qualified workers are directly addressed by the U.S. Department of Labor through the labor certification process. The Petitioner's brief statements on motion do not overcome our findings that the record does not demonstrate the proposed endeavor stands to impact his field or industry more broadly beyond the clientele enrolled in his company's sales training programs, how the potential prospective impact of his proposed endeavor stands to offer broader implications in his industry, and how the proposed endeavor would generate substantial positive economic effects in the region where his company will operate or in other parts of the United States.

The Petitioner has not met the requirements for a motion to reopen. The Petitioner has also not established proper grounds for reconsideration. 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).[1]

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

[1] The Petitioner has not established that his proposed endeavor has national importance. Therefore, he has not demonstrated eligibility for a national interest waiver. Since this issue is dispositive of the Petitioner's motion, we decline to reach and hereby reserve the arguments regarding his eligibility under the second and third prongs outlined in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues where an applicant is otherwise ineligible).