U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33669418

Date: SEP. 24, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a production engineering consultant, 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 record did not establish the Petitioner is eligible for a waiver of the job offer requirement 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, and that the Petitioner's proposed endeavor has substantial merit. However, we determined that 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 a waiver of the job offer/labor certification requirements would benefit the United States.[1]

[1] The Director found that the Petitioner is well positioned to advance the proposed endeavor. We did not address whether we agreed with this finding. On motion, we will not address whether we agree with this finding as the determination that the proposed endeavor lacks national importance is dispositive of the appeal. *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).

On motion, the Petitioner submits a brief, articles on the importance of industrial engineers and how they benefit society and business, and an excerpt from the Occupational Outlook Handbook on industrial engineers. He asserts that we applied the national importance standard incorrectly. Specifically, he states that a proposed endeavor may have national importance even though the impact is limited to one geographic area of the United States. He contends that we erroneously equated the lack of geographical implication and lack of potential to employ U.S. workers as failure to show national importance, and that we disregarded the other criteria for establishing national importance.

We disagree with the Petitioner's claims. In our decision, we cited to *Matter of Dhanasar,* 26 I&N Dec. 884 (AAO 2016) in providing an overview of how to establish a proposed endeavor has national importance and examples of characteristics of a proposed endeavor that may result in a finding of national importance. Specifically, we mentioned that we evaluate the proposed endeavor's potential prospective impact, national or even global implications, and significant potential to employ U.S. workers or other substantial positive economic effects, particularly in an economically depressed area. We additionally stated that a nationally important venture may even focus on only one geographic area of the United States. We then evaluated the proposed endeavor under these standards.

Next, the Petitioner repeats several of the arguments he made on appeal verbatim. These include his assertions that the national importance of the proposed endeavor is not exclusively in the number of employees or revenue achieved, his company would advise small and medium-sized companies resulting in economic stability, businesses would grow as he is an experienced consultant, he would create financial bridges instead of merely generating revenue, he plans to provide environmentally friendly manufacturing solutions customized to his clients' needs, and he would offer jobs and training to U.S. workers. He also repeats his appeal arguments that his company would be based in [redacted] Florida; he would deliver valuable solutions to companies resulting in optimized production and benefits to Florida businesses; it's in the national interest to approve him based on his past performance, professional achievements, and expertise; and his company will stimulate foreign investment generating a multiplier effect of business for the U.S. economy.

We properly evaluated the record before us in determining the Petitioner did not establish the proposed endeavor has national importance. On motion, he has not overcome any of our determinations as described below. We referenced his projected revenue and number of employees. However, he did not demonstrate how his proposed endeavor would benefit an economically depressed area, substantially affect the national economy, or advance the production engineering field. We addressed the articles about engineering consulting and its benefits to businesses and the economy. We stated that while they may demonstrate the field's national importance, we must focus on the Petitioner's particular venture. The Petitioner did not provide sufficient evidence that his specific proposed endeavor would have national implications. Likewise, the evidence submitted on motion about the importance of industrial engineers is related to the field in general, and not to the specific proposed endeavor.

We addressed the Petitioner's professional experience, noting that we do not consider a petitioner's professional experience in determining national importance, rather a petitioner's education, training, and experience relate to whether they are well positioned to advance their proposed endeavor. We referenced his claim that his business would create financial bridges and economic development enhancing the nation's economy, but he provided insufficient evidence to explain his claims or support

his work's purported effect on the national economy. Finally, we reviewed his claim that his proposed endeavor would provide environmentally friendly manufacturing solutions customized to customers' needs. While we declined to consider the proposed endeavor's claimed environmental benefits for the first time on appeal, we stated that even if we considered the issue, the record lacked sufficient evidence demonstrating that he would persuade enough businesses to adopt lean manufacturing methods to nationally affect the environment.

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).[2]

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

[2] The Petitioner has not established that he meets the requisite first prong of the *Dhanasar* analytical framework. 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 third prong outlined in *Dhanasar*. *See Bagamasbad*, 429 U.S. at 25; *see also L-A-C-*, 26 I&N Dec. at 526 n.7.