U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33795240

Date: SEP. 30, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a medical technologist, 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 EB-2 classification as an advanced degree professional, 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 a 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)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In our prior decision, incorporated here by reference, we determined the Petitioner did not meet the first prong of the analytical framework in *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). Specifically, we concluded the Petitioner did not establish the national importance of his proposed endeavor. *See id.* at 889 (providing in relevant part that, to establish eligibility for a national interest waiver, the petitioner must establish that their specific proposed endeavor has national importance).

On motion to reconsider, the Petitioner asserts we incorrectly stated that certain submitted evidence relates to his field of endeavor rather than his specific proposed endeavor and we erred in concluding that the record does not show the potential impact and broader implications of his proposed endeavor. The Petitioner argues that the evidence pertains to his endeavor of "assessing the accuracy and reliability of diagnostic testing devices to detect infectious diseases through the development and implementation of quality control systems, protocols, and methods" and though the record also pertains to the field, it specifically discusses his proposed endeavor. He contends, for example, that

the articles and reports detailing the importance of validating diagnostic tests for infectious diseases and ensuring the rapid and accurate establishment of a microbial cause reflect the importance of both the reliable diagnostic testing field and his specific endeavor of assessing the accuracy of diagnostic tests. The Petitioner reiterates that the submitted evidence shows his endeavor is nationally important because it enhances public health and the welfare of the American people by contributing to the accuracy of medical testing devices, it has broader implications within the field of medical technology, it impacts matters described by the government as nationally important and the subject of national initiatives, and it carries substantial positive economic effects.

In our prior decision, we addressed the relevant evidence and determined it did not demonstrate any broader implications of the Petitioner's proposed endeavor in his field at a level of national importance. *See id.* (stating that national importance is evaluated through consideration of "potential prospective impact" and "broader implications"). We acknowledged the Petitioner's statements regarding the impact on public health of dependable testing for infectious diseases and noted that the record indicates that reliable testing kits are crucial to public health. However, we noted that the submitted evidence relates to the substantial merit and importance of the field of diagnostic testing, rather than the broader implications of the Petitioner's specific endeavor. We also found that the Petitioner's reference to generalized economic impacts of accurate diagnostic testing was not sufficient to establish the national importance of his endeavor. Specifically, we determined that without sufficient information or evidence regarding any projected economic impact or job creation directly attributable to his future work (as opposed to the general economic impact of the industry), the record did not show that benefits to a regional or national economy resulting from the Petitioner's endeavor would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890. The Petitioner's assertion on motion that the evidence demonstrates the national importance of his specific endeavor is not supported by the record.

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.