U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37271143

Date: SEPT. 30, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner is an entrepreneur seeking to establish a data integration consultancy company and he 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 (NIW) 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).

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the record established that the Petitioner qualified for the underlying visa classification, but he did not merit a discretionary waiver of the job offer requirement in the national interest. We dismissed the Petitioner's appeal and his first combined motion to reopen and reconsider. The matter is now before us on his second combined motion. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motion.

The Petitioner's current 20-page motion brief is word-for-word identical to the previous motion brief, except for two fleeting instances in which he mentions that we dismissed the first motion. Some motion filings—to include multiple motion filings as we have here—are unnecessary and they serve to thwart the strong public interest in bringing issues to a close, particularly in immigration proceedings where every delay works to the filing party's advantage who wishes to remain in the United States. *Cf. Hernandez-Ortiz v. Garland*, 32 F.4th 794, 800–01 (9th Cir. 2022) (citing *INS v. Doherty*, 502 U.S. 314, 323 (1992) and *INS v. Abudu*, 485 U.S. 94, 107–08 (1988)). We conclude the present motions are just such a filing. USCIS has the latitude and discretion to be restrictive in granting motions, as granting them too freely can create endless delays to a final resolution, not to mention needlessly wasting government resources attending to repeated requests. *Cf. Abudu*, 485 U.S. at 108. This demonstrates why a filing party may encounter procedural hurdles when they seek a motion, and that burden incrementally increases with each subsequent motion filing. *Id*.

It appears the Petitioner's brief for this motion was not tailored to the most recent decision from this office and instead was drafted to address our appellate dismissal. While we will not go into detail of whether this constitutes a frivolous filing, it appears the Petitioner's counsel drafted this brief and filed

it with this office reflecting little or no attention to the specific factual or legal issues applicable to this case. Such a practice is not a proper means in which to file a motion.

Because the current brief does not address our most recent decision on the Petitioner's first motion, it is not a proper motion filing. The matters the Petitioner must first overcome within this motion are limited to the issues discussed within our most recent decision; the decision on their first motion. General support that a motion must first overcome the most recent decision lies within the regulation at 8 C.F.R. § 103.5(a)(1)–(3) where it repeatedly discusses the underlying or latest decision, it limits the time one has to file a motion after the most recent decision, and it references jurisdiction resting with the entity who made the latest decision. This demonstrates that any motion must first address and overcome the most recent adverse decision before the filing party's arguments may move on to any issue that arose in a previous petition, appeal, or motion filing.

The Petitioner's contentions in their current motion merely reargue facts and issues we have already considered in our previous decisions and that is not a proper basis for a motion to reconsider. *Myers v. Bondi*, No. 23-3286, 2025 WL 2587086, at *4 (8th Cir. Sept. 8, 2025) (citing *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (for the prospect that "a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior [] decision"); *Kuffour v. Sessions*, 907 F.3d 112, 114 (1st Cir. 2018). We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

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.