U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33442205

Date: SEP. 18, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a power systems engineer, seeks employment-based second preference (EB-2) 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 EB-2 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 had not established that the Petitioner qualified for EB-2 visa classification and that a discretionary 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)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

The Petitioner seeks to work in the United States as an electrical engineer "specializing in power systems through [redacted]. In dismissing the appeal, we determined that the Petitioner qualified for the classification as a member of the professions holding an advanced degree. We, however, concluded that the Petitioner did not establish that his proposed endeavor has national importance and thus, he did not meet the national importance requirement of the first prong of the *Dhanasar* framework. *See Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).

On motion, the Petitioner contends that we applied a "stricter than required standard" and "overlooked objective and corroborative evidence." The Petitioner references our determinations, portions of his personal statement, expert opinion letter, and probative research, and maintains that the evidence supports his proposed endeavor's national importance. Except where a different standard is specified by law, a petitioner must prove eligibility for the requested immigration benefit by a preponderance

of the evidence. *Chawathe*, 25 I&N Dec. at 375-76. Under the preponderance of the evidence standard, the evidence must demonstrate that a petitioner's claim is "probably true." *Id.* at 376. Here, the Petitioner states that his record demonstrates his proposed endeavor's national importance and requests that we "reconsider the substantial documentation and arguments" that support his proposed endeavor. However, the Petitioner does not explain how our specific conclusions applied a stricter standard of proof. Furthermore, our appellate decision considered the Petitioner's evidence and his proposed endeavor as outlined in the personal statement. We determined that the record does not sufficiently demonstrate the proposed endeavor's national importance.

The Petitioner also argues that we "erred in not considering precedent decisions," but he mentions only *Dhanasar*.[1] He states that, like *Dhanasar*, he submitted a probative opinion highlighting his work's importance in "advancing U.S. strategic interests in energy sustainability and infrastructure development." The Petitioner also argues that he provided probative research emphasizing his work's critical nature and its alignment with national initiatives. In our appellate decision, we explained why the Petitioner has not met the requisite first prong of the *Dhanasar* framework. For example, unlike the scientific researcher in *Dhanasar*, the Petitioner did not demonstrate that his proposed endeavor offers broader implications in his field. Here, simply disagreeing with our conclusions, without showing how we misapplied law or pointing to policy that contradicts our analysis of the evidence, is not sufficient to reconsider our decision. *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 may submit in essence, the same brief and seek reconsideration by generally alleging error in the prior decision).

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. Accordingly, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4). The Petitioner's appeal therefore remains dismissed, and his underlying petition remains denied.

ORDER: The motion to reconsider is dismissed.

[1] Our appellate decision specifically considered the Petitioner's eligibility under the *Dhanasar* analytical framework's first prong. To the extent the Petitioner is arguing we did not consider *Dhanasar*, the Petitioner is incorrect.