U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36106550

Date: FEB. 3, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner 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 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 the Petitioner's subsequent appeal. The matter is now before us on a 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.

In our appellate decision, we adopted and affirmed the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted"). We affirmed the Director's decision that concluded that the Petitioner had not established that his proposed endeavor was of national importance as required by the first prong of the *Dhanasar* analytical framework. *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016). We made that determination because the Petitioner did not provide sufficient evidence that demonstrated that his proposed endeavor extends beyond his business and his future clients to impact the field, any other industries, or the U.S. economy more broadly at a level commensurate with national importance. *Id.* at 889. Because we dismissed the Petitioner's appeal based on determining that he had not shown the national importance of his proposed endeavor, we reserved our decision concerning the Petitioner's eligibility for a national interest waiver under *Dhanasar's* second and third prongs.[1]

[1] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner reasserts the same arguments as previously discussed and contends that his proposed endeavor is nationally important. The Petitioner's brief lists additional evidence submitted with the motion such as evidence of published material in professional publications written by others about the Petitioner's work, a military age waiver, a military letter listing the Petitioner's career path, and a list of the Petitioner's former clients.

Upon review of the new motion documents, we find that the Petitioner has not presented new facts that overcomes our prior decision to dismiss the appeal. For example, the Petitioner submits a list of companies that the Petitioner stated were his clients from 2008 to 2013; however, the Petitioner did not provide supporting evidence to indicate the specific work he did for all of these clients and more importantly, did not show how working for these clients evidences the national importance of his proposed endeavor.

In addition, the Petitioner submits a memorandum from the chief, recruiting operations branch strength maintenance division of the [redacted] that stated that the Petitioner is granted an exception to the maximum enlistment age of 35 and is authorized to process for enlistment into the [redacted] This exception is valid for 180 days from the date of the memorandum, in this case July 24, 2023. In addition, the Petitioner submits a letter from the recruiting and retention section chief of the [redacted] dated October 22, 2024, indicating that the Petitioner "has actively been preparing for military service" and has taken steps to join the military. The letter further notes that the Petitioner has a "clear path in the military: join and enlist under the Information [redacted] and complete all required training and perform duties under the [redacted] as he proceeds to progress to the Officer Route." Although the Petitioner claims he wishes to pursue a career with the military, this evidence alone does not demonstrate that his proposed endeavor has national importance.

On motion, the Petitioner contends that organizations have benefitted from his expertise and several organizations have "used my work without proper credit" and "several authors have used and not properly cited my work." The Petitioner provides articles written by individuals that he claims were discussing and utilizing his work but did not properly cite to him. However, the Petitioner's contentions without any supporting documentation, is not sufficient evidence to establish his claim that his work has influenced his industry or field. It is the Petitioner's burden to submit evidence that sufficiently corroborates its claims. Statements made without supporting documentation are of limited probative value and are insufficient to satisfy the Petitioner's burden of proof. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998).

On motion, the Petitioner submits additional government reports and articles to support his contention that his proposed endeavor will be nationally important. But his brief provides no analysis of how these articles provide new facts such that they have the potential to change the decision's outcome. In addition, none of the articles or reports address the specifics of the Petitioner's proposed endeavor.

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.

As noted, our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). In dismissing your appeal, we discussed the submitted evidence and explained why it was insufficient to establish your eligibility for a national interest waiver. Rather than addressing our appeal decision, you contend that the Service Center did not fully consider the evidence submitted with the initial filing and failed to consider supporting precedent. However, the Petitioner does not identify what specific content the AAO failed to consider or how the record contains evidence that overcomes the analysis and findings in our decision.

The Petitioner has not established proper grounds for reconsideration. Our prior decision properly analyzed the Petitioner's assertions. 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).

Since your brief does not state new facts which are supported by documentary evidence or establish that our decision on appeal was based on an incorrect application of law or policy, nor is it supported by any relevant caselaw, statute, or regulation, your combined motion to reopen and reconsider must be dismissed. Therefore, the combined motion to reopen and reconsider will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.