U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 28402400

Date: JAN. 15, 2025

Motion on Administrative Appeals Office Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act), section 203(b)(5), 8 U.S.C. § 1153(b)(5) (2018). This fifth preference (EB-5) classification makes immigrant visas available to noncitizens who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the United States economy and create at least 10 full-time positions for qualifying employees.[1]

The Chief of the Immigrant Investor Program Office denied the petition on multiple grounds. We dismissed the subsequent appeal concluding that the Petitioner did not establish the lawful source of the funds he claimed to have invested in [redacted] (the NCE). The matter is now before us on motion to reconsider.[2]

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 state the reasons for reconsideration; be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy, and establish that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). A motion to reconsider that does not satisfy these requirements must be dismissed. 8 C.F.R. § 103.5(a)(4). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii).

Although the Petitioner submits a brief in support of his motion to reconsider, he does not claim or establish that our decision dismissing his appeal was based on an incorrect application of law or USCIS policy, cite to any pertinent precedent decision, or demonstrate that the decision was incorrect based

[1] On March 15, 2022, President Joseph Biden signed the EB-5 Reform and Integrity Act, which made significant amendments to the EB-5 program, including the designation of targeted employment areas and the minimum investment amounts. *See* Section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). In this case, the Petitioner filed his petition on October 10, 2018, so the relevant law in existence on that date governs this adjudication.

[2] We decline the Petitioner's request for oral argument. *See* 8 C.F.R. § 103.5(a)(7) (stating the provisions of 8 C.F.R. § 103.3(b), pertaining to requests for oral argument on appeal, also apply to requests for oral argument regarding motions considered by the Administrative Appeals Office (AAO)).

on the evidence in the record at the time of our decision. *See* 8 C.F.R. § 103.5(a)(3). He generally states that he believes "the evidence presented thus far has been adequate and sufficient," but does not cite to any regulation, case law, precedent decisions or binding agency policies in support of his assertion. In fact, he directly acknowledges the evidentiary deficiencies discussed in our decision and states that he will offer supplemental explanations and evidence at a later date if his request for oral argument is granted.

For example, the Petitioner states that while he believes he has submitted sufficient evidence related to his receipt of a $300,000 loan from an individual, "the remainder of approximately $200,000 perhaps need[s] more explanation by a totality of circumstantial evidence." The Petitioner further indicates that he would be able to submit additional evidence demonstrating the individual lender's "ability and capacity" to loan him $300,000 as well as evidence that he has repaid this loan. Finally, with respect to our determination that he did not show a clear path of funds between his own bank accounts and the accounts of the two entities that purportedly made remittances to the NCE on his behalf, he asserts that he will present a "slide show with dates, times and time stamp, with amounts in excess of $500,000 deposited into the accounts of NCE." However, the Petitioner's assurance that he will submit additional evidence at a later date does not meet the requirements of the motion to reconsider under 8 C.F.R. § 103.5(a)(3). A motion to reconsider must, when filed, establish that the prior decision was incorrect based on the evidence of record at the time of the initial decision. *Id.*

The Petitioner also suggests that our office was "prejudiced and overwhelmed by the sheer volume of sterile reams of paper that do not tell the complete story, nor clearly connect the dots to form a comprehensive picture of investment that has been made." However, he offers no support for his claim that our decision was prejudicial or failed to apply the appropriate standard of proof to the facts presented. The Chief offered the Petitioner multiple opportunities to explain and document the source and path of funds used for his EB-5 investment and, with each opportunity, the Petitioner introduced new claims that were not adequately explained or supported by the documentation required by 8 C.F.R. § 204.5(j)(2) and (3). In fact, he acknowledges that the evidence previously submitted was not comprehensive and did not "tell the complete story" or "connect the dots."

The Petitioner has not established that our appellate decision was based on an incorrect application of law or policy, or that our appellate decision was incorrect based on the evidence then before us. *See* 8 C.F.R. § 103.5(a)(3), (4). Accordingly, we will dismiss the motion.

ORDER: The motion to reconsider is dismissed.