U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 31630410

Date: JUN. 11, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, a foreign trade specialist providing consulting services to small and medium sized import export businesses, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act. U.S. Citizenship and Immigration Services (USCIS) may grant this discretionary waiver of the required job offer, and thus labor certification, when it is in the national interest to do so. *See id.*

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualifies for EB-2 classification as a member of the professions holding an advanced degree but did not establish that he qualifies for a national interest waiver. We dismissed a subsequent appeal. The matter is now before us on 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.

In our prior decision, which we incorporate here by reference, we concluded that the Petitioner had not established his eligibility for a national interest waiver based on the framework set out in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). Specifically, we determined that the Petitioner had not established that his endeavor stood to sufficiently extend beyond his employees and clients such that its impact would be at a level commensurate with national importance. *See id.* (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). We highlighted that the Petitioner's proposed endeavor, as documented, did not have the potential to employ a significant number of U.S. workers or otherwise offer substantial positive economic effects. *See id.* ("An endeavor that has

significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, . . . may well be understood to have national importance."). We also determined that the Petitioner did not establish, through sufficient probative evidence, that his endeavor would have broader implications in his field that would resonate on a national level. *See id.* (stating that national importance is evaluated through consideration of "potential prospective impact" and "broader implications"). We therefore concluded that the Petitioner did not establish that his proposed endeavor has national importance such that he is eligible for a national interest waiver under *Dhanasar*.[1]

On motion, the Petitioner contests the correctness of our prior decision and states that his motion to reconsider is "fortified by pertinent precedent decisions." However, in support of the motion, the Petitioner relies on only *Matter of Hashmi*, 24 I&N Dec. 785 (BIA 2009) (concerning the beneficiary of a family-based visa petition and factors to consider when determining whether to grant a motion to continue removal proceedings until a visa petition has been adjudicated), and has not established the relevancy or applicability of *Hashmi* to his present petition. The Petitioner does not identify any specific errors of law or fact in our prior decision, only generally stating that we erred in dismissing his appeal. He goes on to state the importance of analyzing his proposed endeavor and its potential economic impacts, including the creation of jobs. However, the Petitioner does not provide an analysis of these factors on motion or indicate how our analysis of the economic implications of his endeavor in our prior decision was deficient. Instead, the Petitioner generally asserts that he has provided ample evidence that his proposed endeavor has far reaching and broad implications for the national and international economy.

A petitioner cannot meet the requirements of a motion to reconsider by making general, unsupported assertions about the prior decision. *See* 8 C.F.R. § 103.5(a)(3). Since the Petitioner has not identified an erroneous conclusion of law or policy in our analysis of the national importance of his proposed endeavor, we conclude that he has not met the requirements of a motion to reconsider or established eligibility for the underlying benefit. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.

[1] In light of this conclusion, we declined to reach and reserved the Petitioner's remaining arguments concerning eligibility under *Dhanasar*. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where the applicant did not otherwise meet their burden of proof).