U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 29222554

Date: DEC. 06, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, a human resources operations and business development specialist, seeks second preference immigrant classification as a member of the professions holding an advanced degree or as an individual of exceptional ability, 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 the Petitioner had not established eligibility for a 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.

In dismissing the appeal, we determined the Petitioner did not establish his proposed endeavor satisfied the national importance aspect of the first prong under *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). Specifically, we concluded the Petitioner did not show how his endeavor would have broader implications in the field or would have significant potential to employ U.S. workers or other substantial positive economic effects. Accordingly, we decided further analysis of his qualification under the second and third prongs outlined in *Dhanasar* would serve no meaningful purpose and reserved those issues.

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.

On motion, the Petitioner argues that we did not review the totality of the evidence and points to his personal statement, business plan, expert opinion letters, and probative research. The Petitioner

references our determinations, copies portions of his personal statement, business plan, expert opinion letters, and probative research, and disagrees with our conclusions without demonstrating 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 may submit in essence, the same brief and seek reconsideration by generally alleging error in the prior decision). In our appellate decision, we specifically addressed the evidence that he claims we did not consider and explained why the documentation did not satisfy the national importance aspect of the first prong. Again, simply disagreeing with our conclusions, or "hold[ing] a different opinion" as stated by the Petitioner, without showing how we misapplied law or pointing to policy that contradicts our analysis of the evidence is not a ground to reconsider our decision.

Furthermore, the Petitioner asserts that we "applied a stricter standard of proof permissible when evaluating the evidence of record." However, the Petitioner does not point to specific instances where we required a "stricter standard" or explain how we applied a different standard of proof other than by the preponderance of the evidence. The preponderance of the evidence is the standard of proof governing immigration benefit requests. *Chawathe*, 25 I&N Dec. at 375; *see also Mater of Martinez*, 21 I&N Dec. 1035, 1036 (BIA 1997); *Matter of Soo Hoo*, 11 I&N Dec. 151, 152 (BIA 1965).

Finally, the Petitioner claims that we "erred in not considering precedent [d]ecisions" and cites to *Dhanasar*. However, throughout our decision, we evaluated the Petitioner's claims and documentation based on the *Dhanasar* analytical framework. Moreover, we referenced *Dhanasar's* concepts and applied them to the Petitioner's arguments and evidence. As such, contrary to the Petitioner's assertion, we considered the *Dhanasar* precedent decision in adjudicating the Petitioner's national interest waiver and appeal.

Because the Petitioner did not demonstrate that we erroneously applied law or policy in dismissing his appeal, the Petitioner did not establish that his motion satisfies the requirements for a motion to reconsider under 8 C.F.R. § 103.5(a)(3). Therefore, we will dismiss the motion.

**ORDER:** The motion to reconsider is dismissed.