U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 29023921

Date: NOV. 21, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, an economist, seeks second preference 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 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 qualified for classification as a member of the professions holding an advanced degree, but that he had not established that 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 motion to reconsider.[1] On motion, the Petitioner submits a brief and contests the correctness of our prior decision. 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 a grant motion that satisfies these requirements and demonstrates eligibility for the requested benefit.

As stated, for purposes of a motion to reconsider, the question is whether our decision was correct based on the record that existed at the time of adjudication. As discussed in our appellate decision, the Director identified that the Petitioner's proposed endeavor involves "provid[ing] university admission and other educational services to prospective Nigerian students." The record reflects that he established his educational consulting company in Texas in January 2022. In dismissing the appeal, we agreed with the Director's finding that the Petitioner had not established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. Specifically, we determined that the Petitioner had not met the first prong set forth in the *Dhanasar* analytical

[1] The Petitioner indicated at Part 1 of the Form I-290B that he and his company, [redacted] were filing the motion; however, the company is not an entity with legal standing in this proceeding (an "affected party"). Only an affected party may file an appeal or motion. 8 C.F.R. § 103.3(a)(1)(iii)(B) and (a)(2)(i).

framework.[2] We concluded that his proposed work providing educational consulting services to prospective Nigerian international students is an area that has substantial merit based upon their important economic, educational, and cultural contributions to the country, but that the prospective impact of his endeavor did not support a finding of national importance.

On motion, the Petitioner maintains that his proposed endeavor is of national importance. He explains that the educational consulting service provided by his endeavor can help more Nigerian students to study in the United States, "promoting diversity and inclusion," "building cultural bridges," "developing future leaders," providing "economic benefits," and strengthening international partnerships." These arguments show the substantial merit of the Petitioner's proposed endeavor, but they are not sufficient to demonstrate that his specific educational consulting activities have national importance.

In determining whether a proposed endeavor has national importance, we consider its potential prospective impact. The Petitioner asserts that "[i]f my company could bring 100 students to study in the United States annually who would later become extraordinary and talented citizens, I believe we would be contributing meaningfully to the United States." The record, however, does not include evidence demonstrating that the Petitioner's work toward bringing more Nigerian international students to study in the United States stands to have positive effects that reach beyond his educational consulting company to affect his region or our nation more broadly. In *Dhanasar*, we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893.

The Petitioner's arguments do not establish that our appellate findings were based on an incorrect application of the law, regulation, or Department of Homeland Security policy, nor does the motion demonstrate that our latest decision was erroneous based on the evidence before us at the time of the decision. While we acknowledge the merits of the Petitioner's work to help his clients successfully apply to study in the United States, the evidence does not demonstrate that his educational consulting services offer benefits that extend beyond his company to impact the field of educational consulting services more broadly. As the Petitioner has not shown that we erred in determining that his specific endeavor's prospective impact supports a finding of national importance, he has not met the requirements of a motion to reconsider.

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. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.

[2] As the Petitioner had not established the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* framework, we determined that he was not eligible for a national interest waiver and that further discussion of the second and third prongs would serve no meaningful purpose.