U.S. Citizenship and Immigration Services

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

In Re: 29607043

Date: DEC. 12, 2023

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

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy the aforementioned requirements and demonstrate eligibility for the requested benefit.

In our decision dismissing the appeal, we agreed with the Director that the Petitioner did not meet the first prong of the analytical framework set forth in *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016). We explained that the Petitioner had not demonstrated that his "proposed endeavor had potential prospective impact rising to a level of national importance."

On motion, the Petitioner indicates that his proposed endeavor is "to work as a Computer Systems Engineer and an Entrepreneur in the field of Information Technology (IT) by establishing his own business, [redacted]." He argues that "[t]he Business Plan and Petitioner's

resume included in the [petition] should have been deemed sufficient to clarify the nature of the proposed endeavor." The Director's decision and our appellate decision, however, did not contest the clarity of the Petitioner's proposed endeavor.

In addition, the Petitioner asserts that his proposed work the field of information technology (IT) "will be able to provide easy access to a wide range of services such as service monitoring, IT help desk, network access control and IT training. Such kind of services are required by all businesses now, whether small or big, as the world moves on to a digitization phase." He contends that USCIS "has incorrectly concluded that the potential impact of [his] proposed endeavor would not meet the threshold of national importance." The Petitioner further argues that "despite presentation of recruitment contracts, articles, and other supportive evidence," we determined that this documentation was "insufficient to endorse the Petitioner's proposed endeavor and to demonstrate its impact to the United States."[1]

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement, we look to evidence documenting the "potential prospective impact" of his work. While the Petitioner's statements reflect his intention to provide valuable IT services to his company's clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. 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. Here, the Petitioner has not shown that his proposed endeavor stands to sufficiently extend beyond his company and its clientele to impact his field, the IT services industry, societal welfare, or the U.S. economy more broadly at a level commensurate with national importance.

The Petitioner also points to his "twenty-five years of experience" providing IT-related services and "capability to deliver high quality technical and business solutions." The Petitioner's skills, knowledge, and prior work in his field, however, relate to the second prong of the *Dhanasar* framework, which "shifts the focus from the proposed endeavor to the foreign national." *Id.* at 890. The issue here is whether the specific endeavor that he proposes to undertake has national importance under *Dhanasar's* first prong.

Furthermore, the Petitioner asserts that USCIS "overlooked the potential for job creation, a factor expressly highlighted as a determinant of national importance. [USCIS] failed to recognize that the Petitioner's proposed endeavor not only has the capacity to create new numerous jobs, but indeed it is already doing so." He argues that USCIS' decision "was flawed due to an oversight of these crucial elements."

The Petitioner, however, has not shown that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Specifically, he has not demonstrated that his company's future staffing levels and business activity stand to provide substantial economic benefits in Florida or any other region in the

[1] The Petitioner does not explain how the recruitment contracts, articles, and other evidence show that his specific proposed endeavor offers broader implications at a level indicative of national importance.

United States.[2] While the Petitioner claims that his company has growth potential, he has not presented evidence indicating that the benefits to the regional or national economy resulting from his undertaking would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id*. at 890. In addition, although the Petitioner asserts that his endeavor "has the capacity to create new numerous jobs," he has not offered sufficient evidence that his endeavor offers Florida or any other U.S. region a substantial economic benefit through employment levels, tax revenue, or business activity.

The Petitioner has not offered new evidence or facts on motion to overcome the stated grounds for dismissal in our appellate decision. Moreover, he has not demonstrated that our appellate decision was based on an incorrect application of law or USCIS policy and that our decision was incorrect based on the evidence in the record at the time of the decision.

The Petitioner has not established new facts relevant to our appellate decision that would warrant reopening of the proceedings, nor has he shown that we erred as a matter of law or USCIS policy. Consequently, we have no basis for reopening or reconsideration of our decision. Accordingly, the motions will be dismissed. 8 C.F.R. § 103.5(a)(4). The Petitioner's appeal therefore remains dismissed, and his underlying petition remains denied.

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

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

[2] Regarding future staffing, the Petitioner's business plan anticipated that his company would employ four personnel in years one through three and six personnel in years four and five. In addition, his plan offered revenue projections of $399,600 in year one, $459,540 in year two, $528,471 in year three, $924,824 in year four, and $1,202,272 in year five.