U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33747094

Date: SEP. 11, 2024

Motion on Administrative Appeals Office Decision

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

The Petitioner, an Oracle EBS consultant, seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this 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 did not establish eligibility for the underlying EB-2 classification or the requested national interest waiver. The Petitioner subsequently filed an appeal claiming eligibility for EB-2 immigrant classification as an individual of exceptional ability[1] and the requested national interest waiver. We dismissed his 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 decision, we concluded that the Petitioner did not establish his eligibility as an individual of exceptional ability because he only met two evidentiary criteria: 8 C.F.R. §§ 204.5(k)(3)(ii)(A) and (B), relating to an official academic record and ten years of full-time experience in the occupation sought. We also determined that the record did not establish that Petitioner met the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(F) relating to recognition of achievements and significant contributions to his industry or field.[2] While we acknowledged the Petitioner's submission of numerous reference letters from former colleagues and others in the field generally praising the Petitioner's expertise and

[1] Because the Petitioner did not acknowledge or rebut the Director's conclusion that he was not eligible for EB-2 immigrant classification as an advanced degree professional, we considered that issue waived.

[2] The Petitioner did not submit evidence to satisfy the evidentiary criteria at 8 C.F.R. §§ 204.5(k)(3)(ii)(C) or (E), nor did he contest the Director's determination that he did not meet the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(D).

work ethic, we concluded that the letters did not establish that the Petitioner's contribution went beyond being a dedicated and competent employee. Additionally, we explained that the evidence in the record relating to the Petitioner's provision of services, including the professional services agreements, invoices, and his employment with a large, "diversified conglomerate" may have established his commitment and success in his career, but it did not demonstrate recognition for achievements and significant contributions to his field. Finally, we reserved the Petitioner's appellate arguments regarding his eligibility for a national interest waiver.[3]

On motion, the Petitioner generally disagrees with our decision, asserting "error in the evaluation of the evidence," and claims that the record establishes his achievements and significant contributions to his industry in satisfaction of the evidentiary criterion at 8 C.F.R. § 204.5(k)(3)(ii)(F). In doing so, he does not identify any specific documents or evidence that we overlooked in our appellate review of the record that establish his significant contributions to the field. Instead, he repeats the salient points of his experience and relies on the same evidence we discussed in our prior decision. For example, on motion the Petitioner claims that the letters in the record show that he "significantly enhanced the logistical operations of [his former employer's] company," and his recent role with his multi-national employer attests to his "standing as a highly respected professional in the global IT services sector." Likewise, he claims that, given the size of this employer's operations, his role positioned him as "a top-tier professional capable of delivery impactful solutions." Additionally, the Petitioner cites the expert opinion letter in the record, in which the expert opines that, not only did the Petitioner fulfill the duties of his roles, but he often exceeded the demands of each position he had, and spearheaded "major projects that involve critical updates, system overhauls, and the implementation of comprehensive new systems." He also discusses his educational background and training, yet these credentials do not establish his significant contributions to his field.

We addressed the Petitioner's evidence and claims in our prior decision and concluded that while the record showed he had made contributions to his employers and customers, he did not establish significant contributions to his field. The Petitioner has shown that he has received praise and recognition given his dedication to his work, but the evidence does not identify ways in which the Petitioner's work resulted in significant contributions to his field. As such, the Petitioner has not established that our decision was based on an incorrect application of law or policy. Because the Petitioner has not demonstrated how we erred as a matter of law or policy, his motion does not meet the requirements of a motion to reconsider under 8 C.F.R. § 103.5(a)(3). *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (confirming that a person cannot satisfy the requirements of a motion to reconsider by generally alleging error in the prior decision, rather the filing party "must specify the factual and legal issues" that were decided in error).

Consequently, we have no basis for reconsideration of our decision, and the Petitioner's motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.

[3] *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 an applicant is otherwise ineligible).