U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42249011

Date: APR. 16, 2026

Motion on Administrative Appeals Office Decision

Form I-526, Immigrant Petition by Standalone Investor

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5). This fifth preference classification makes immigrant visas available to aliens who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the United States economy and create at least 10 full-time positions for qualifying employees. *Id*. Aliens may invest in a project associated with a United States Citizenship and Immigration Services designated regional center. *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, section 610, as amended.

Field Operations Directorate (FOD) denied the petition, concluding that the record did not establish that: (1) the Petitioner obtained her investment funds through lawful means; and (2) the project would create the requisite number of jobs. We dismissed a subsequent appeal. The matter is now before us on motion to reopen.

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.

We incorporate by reference our analysis in our prior decision. By way of summation, and in relevant part, the Petitioner sought to invest $500,000 towards construction of a hotel, casino, and amusement park. She claimed she saved employment income to purchase a residence for 1.81 million RMB in October 2009, which she then sold for 7 million RMB in January 2017, proceeds of which she invested in the NCE in March 2017. FOD determined that bank statements the Petitioner submitted did not establish whether the corresponding accounts contained income from an employer and whether they held sufficient funds to purchase the residence in 2009. On appeal, the Petitioner contended that she established the lawful source of her funds.[1]

[1] FOD also addressed material changes to the project and insufficient evidence of job creation. On appeal, the Petitioner discussed an "exemplar" for the project. However, we explained that this generalized, project-wide "exemplar" does not establish the source(s) of the Petitioner's funds and, because that issue is dispositive, we reserved the separate ground of ineligibility based on insufficient evidence of job creation.

We acknowledged that the record established the Petitioner earned income that plausibly could have been used to purchase the residence for 1.81 million RMB in October 2009; however, we observed that the record does not establish that she saved a sufficient amount of that income to have done so. We discussed the Petitioner's bank accounts' net increases during the relevant period, totaling approximately 1.2 million RMB, which is less than the residence's 1.81 million RMB purchase amount in 2009. We also noted that, on April 22, 2009, the Petitioner transferred 1.76 million RMB into and out of one of her bank accounts, but she did not establish either the source or the destination of those funds. Based on these issues, we determined that the record did not establish the full source(s) of funds used to purchase the residence in October 2009 and that the source(s) were lawful, which, in turn, does not demonstrate the source(s) of the funds ultimately invested in the NCE in 2017 through the sale of that residence were lawful.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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 these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits the following evidence:

- Duplicate copies of news articles about the amusement park dated February 2023 already in the record;
- Undated informational material about the hotel, casino, and amusement park's redevelopment plan;
- Excerpts from a document dated January 2025, referencing an economic impact analysis and historical operating performance related to the project;
- A duplicate copy of a term sheet dated July 2025 already in the record;
- An undated "supplemental explanation" from the Petitioner regarding the source of funds for the 2009 residential purchase;
- A duplicate copy of a "statement of legitimate source of funds" from the Petitioner dated July 2025 already in the record;
- A duplicate copy of an employment confirmation letter dated May 2024 already in the record; and
- Duplicate copies of bank statements dated 2003-09 already in the record.

We first note that the duplicate news articles, the undated informational material about the hotel, casino, and amusement park; the excerpts from a document referencing an economic impact analysis and historical operating performance related to the project; the duplicate copy of the term sheet; and the duplicate employment confirmation letter are immaterial to the basis for which we dismissed the appeal: the source(s) of funds the Petitioner invested in the NCE. Because these documents do not pertain to a material fact discussed in the preceding decision, we need not address them further. *See* 8 C.F.R. §§ 103.5(a)(1)(i)-(ii) (limiting our review on motion to the preceding decision).

In turn, the "statement of legitimate source of funds," the employment confirmation letter, and the bank statements are not documentary evidence of new facts; rather, they are duplicative evidence of facts already in the record; therefore, we also need not address this information further.

Compare 8 C.F.R. § 103.5(a)(2) (requiring motions to reopen to state new facts and be supported by documentary evidence of those new facts) *with* 8 C.F.R. § 103.5(a)(3) (requiring motions to reconsider to establish the preceding decision was incorrect, based on evidence already in the record at the time of that decision).

Next, neither the undated "supplemental explanation" nor the Petitioner's brief states a new material fact, as required by the regulation at 8 C.F.R. § 103.5(a)(2). Instead, she repeats information already in the record, which we addressed in the preceding decision: "the bank-issued statements do not specify the originating account" for the April 2009 bank transactions and that she was "unable to retain a complete set of documents reflecting every step of the fund flow" used to purchase the residential property ultimately sold to make the NCE investment. These statements merely reiterate the basis for which we dismissed her appeal. Similarly, even if the copies of bank statements the Petitioner submits on motion to reopen were not duplicate copies of evidence already in the record, they merely repeat information that does not establish the full source(s) of funds used to purchase the residence in 2009 and, thus, do not establish that the source(s) of funds used to make the 2017 NCE investment were lawful. As noted above, petitioners bear the burden of establishing that their claims are more likely than not true. *Matter of Chawathe*, 25 I&N Dec. at 376. Here, the Petitioner does not satisfy that burden.

In summation, the Petitioner does not establish on motion to reopen documentary evidence of a new fact that may establish eligibility; therefore, we will dismiss the motion to reopen. 8 C.F.R. §§ 103.5(a)(2), (4).

ORDER: The motion to reopen is dismissed.

NOTICE: Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.