U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37696846

Date: APR. 21, 2025

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner is a judo coach who seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did he demonstrate that he met at least three of the ten regulatory criteria. We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motion.

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).

Supporting the motion to reopen, the Petitioner states he has continued his coaching career and submits certificates dated in December 2024 and a letter from the head instructor where he coaches. The certificates postdate the petition filing date and cannot be considered in these proceedings. A petitioner must establish the elements for the approval of the petition at the time of filing the original petition. 8 C.F.R. §§ 103.2(b)(1), (12). A petition may not be approved if the petitioner was not qualified at the priority date but expects to become eligible at a subsequent time. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). If the Petitioner wishes USCIS to consider this evidence, he must file a new petition.

Regarding the letter, the Petitioner does not identify what facts are new within the correspondence, nor does he indicate under which regulatory criterion we should apply the letter. This falls short of

meeting his burden of proof. The Petitioner's burden of proof comprises both the initial burden of production, as well as the ultimate burden of persuasion. *Matter of Y-B-*, 21 I&N Dec. 1136, 1142 n.3 (BIA 1998); *also see* section 291 of the Act; 8 U.S.C. § 1361. "Commensurate with that burden is responsibility for explaining the significance of proffered evidence. The significance of [the evidence] is for [a petitioner] to put in context and explain in a meaningful way." *Repaka v. Beers*, 993 F. Supp. 2d 1214, 1219 (S.D. Cal. 2014); *Innova Sols., Inc. v. Baran*, 338 F. Supp. 3d 1009, 1023 (N.D. Cal. 2018); *Eguchi v. Kelly*, No. 3:16-CV-1286-D, 2017 WL 2902667, at *3 (N.D. Tex. July 7, 2017).

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 these requirements and demonstrate eligibility for the requested benefit.

Supporting the motion to reconsider, the Petitioner does not contest the correctness of our prior decision, nor does he indicate we misapplied the law or USCIS policy.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. 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 reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.