U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37202379

Date: APR. 29, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks classification as an individual 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.

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner had not demonstrated a one-time achievement or satisfaction of at least three of the ten categories of evidence. 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 as untimely filed.

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). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. 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).

Furthermore, under 8 C.F.R. § 103.5(a)(1) and 8 C.F.R. § 103.8(b), in general, motions must be filed within 33 days of the adverse decision. The regulation at 8 C.F.R. § 103.2(a)(7)(i) explains that the filing date is "the actual date of receipt at the location designated for filing such benefit request whether electronically or in paper format." In addition, 8 C.F.R. § 103.5(a)(1)(iii)(B) specifies that a motion filing must include a fee payment of the correct amount. As relating to a motion to reopen the proceeding, the filing deadline may be excused if a petitioner demonstrates that the delay was reasonable and was beyond their control. 8 C.F.R. § 103.5(a)(1)(i).

We will dismiss the Petitioner's current motions as untimely filed. Our latest decision was issued on October 16, 2024. The Petitioner attempted to file his combined motions in November 2024, but USCIS rejected the filings because the Form I-290B, Notice of Appeal or Motion, was not complete. The Petitioner's Form I-290B was received at the designated filing location on December 4, 2024, which is 49 days after we issued the adverse decision. While the evidence indicates that the delay was due to the Petitioner not properly completing information on the Form I-290B, he has not argued or shown through documentation that the delay in filing the motion to reopen was reasonable and beyond his control. *See* 8 C.F.R. § 103.5(a)(1)(i). With respect to the motion to reconsider, neither the Act nor the pertinent regulations grant us authority to extend the 33-day time limit for filing a motion to reconsider. Accordingly, the combined motions will be dismissed as untimely filed.

Furthermore, the Petitioner has not established new facts relevant to our latest 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. For these additional reasons, 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.