U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39006788

Date: AUG. 12, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a ballroom dance choreographer, 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.

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner had only met two of the "at least three" required evidentiary criteria for this classification according to regulation. 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 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 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 to reopen, the Petitioner submits two media articles about interviews with him, one from December 2024 and one from January 2025. The Petitioner asserts that these new facts establish eligibility, as they demonstrate that he has played a leading or critical role in organizations with distinguished reputations according to the requirement at 8 C.F.R. § 204.5(h)(3)(viii). But the articles, which consist entirely of the Petitioner's responses to interview questions, do not discuss the organizations where the Petitioner has worked at length. In addition, to the extent that the Petitioner's motion presents documentary evidence of new facts regarding his eligibility for the requested benefit, the Petitioner must meet eligibility requirements at the time of filing the petition. *See* 8 C.F.R. § 103.2(b)(1).

Turning to the Petitioner's motion to reconsider, such a motion 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.

Here, the Petitioner contests the correctness of our prior decision dismissing his appeal. In doing so, he relies on *Matter of Chawathe*, 25 I&N Dec. 369 and *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) to support his claim that he has submitted sufficient evidence of his eligibility for at least three required evidentiary criteria.

First, the Petitioner contests our determination that he did not meet the criterion for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." 8 C.F.R. § 204.5(h)(3)(i).[1] In our decision dismissing his appeal, we determined that while the record demonstrated that the Petitioner had received awards, he had not shown sufficient evidence of the awards' claimed national or international recognition, including evidence that people beyond the granting organizations recognize them for excellence in the field of endeavor. Further, we noted that the awards were for dancing, not his stated field of choreography. On motion, the Petitioner contends that he provided letters from industry professionals regarding his receipt of the awards and that he is not required to show mainstream media coverage. He also argues that his accomplishments as a dancer inform his choreographic ability and are therefore consistent with the *USCIS Policy Manual*'s discussion of this topic. The Petitioner's motion arguments are unavailing. He must show that the awards are nationally or internationally recognized in the field of endeavor according to the plain language of the regulation. We conclude that he has not met his burden to show eligibility for this criterion on motion.

The Petitioner also argues that we erred in concluding that he was ineligible for the criterion at 8 C.F.R. § 204.5(h)(3)(ii) regarding "memberships in associations in the field for which the classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or field." We agreed with SCOPS that the Petitioner did not provide sufficient independent, corroborating evidence that his claimed memberships were based on outstanding achievements as judged by national or international experts in his field. On motion, the Petitioner disputes this conclusion and states the criteria for membership and identity of the membership for the adjudicators. We acknowledge that, contrary to our characterization in the appeal decision, the Petitioner did submit information below regarding the evaluation panels. Nevertheless, the Petitioner's focus on these topics is misplaced. While he argues on motion that we overlooked the rigor and specificity in these criteria, these alone do not establish that outstanding achievements are required. As he has not demonstrated, and does not argue, on motion that these associations require outstanding achievements for their members, he has not shown that our prior decision was incorrect in this regard.

[1] In support of the motion, the Petitioner cites two of our non-precedent decisions, but these do not bind us in future adjudications. *See* 8 C.F.R. § 103.3(c).

Next, the Petitioner asserts that our prior decision should have determined that he met the criterion under 8 C.F.R. § 204.5(h)(3)(v) for making an original contribution of major significance in the field. SCOPS determined that the training manual the Petitioner authored regarding his dance methodology did not sufficiently show major significance in the field, a determination with which we agreed on appeal. While we acknowledged the Petitioner had made a contribution and that evidence reflected this contribution's originality, the record lacked sufficient independent, objective evidence of the manual's "substantial influence beyond one's employers, clients, or customers" as affirmed in *Strategati, LLC v. Sessions*, No. 18-cv-1200, 2019 WL 2330181, at *6 (S.D. Cal. May 31, 2019). On motion, the Petitioner claims that he has demonstrated such major significance according to the framework outlined in Volume 6, Part F, Chapter 2 of the *USCIS Policy Manual*. He argues that his dance methodology is used by multiple institutions, the methodology has been adopted nationally and internationally, and that his endorsements came from non-affiliated professionals. The Petitioner cites several documents in the record in support of this assertion. However, as we stated in our prior decision, the majority of the evidence the Petitioner submitted for this criterion comes from former coaches, employers, and colleagues; therefore we properly gave these less weight as independent, objective evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376 (finding that a petitioner must support claims with independent evidence). We recognize the Petitioner's reference on motion to the letter from [redacted], President of the [redacted] described the Petitioner's training methodology as a significant contribution to the field. Mr. [redacted] stated that the methodology had been approved by the federation and was actively used by its choreographers and other private dance schools. But the evidence does not establish that we erred in our conclusion that widespread usage of the Petitioner's training methodology was not sufficient to show its major significance. Furthermore, the Petitioner has not overcome our prior determination that he had not supported his claim of his methodology's international use.

The Petitioner additionally disputes our conclusion that he did not sufficiently demonstrate that he had performed in a leading or critical role for a distinguished establishment or organization as required by 8 C.F.R. § 204.5(h)(3)(viii). In our appeal decision, we clarified the Petitioner's claim of performing in a critical role for the dance sport federation, but determined that the Petitioner had neither supported this claim with sufficient evidence nor established that the dance federation had a distinguished reputation. The Petitioner disputes the latter finding on motion but has not identified specific evidentiary submissions that demonstrate this. We also concluded that the record did not support Petitioner's second claim of performing a critical role in a dance school by introducing a new successful training methodology. On motion, the Petitioner reasserts his eligibility for this criterion and specifically argues that he updated the dance school's methodology after the publication of the 2017 article he submitted, which was evident from the letter from the CEO of the dance school. We acknowledge this claim, but it is generally a reiteration of the arguments he made below and that we have already considered. Therefore, we find no error in our previous conclusion that the Petitioner did not meet this criterion.

Finally, the Petitioner argues on motion we should have determined him to have commanded high salary or significantly high remuneration compared to others in his field per the regulation at 8 C.F.R. § 204.5(h)(3)(ix). We concluded in our appeal decision that the Petitioner had submitted salary information for dance choreographers, but that his own title had been "head coach," and that therefore the record lacked an appropriate comparison between the Petitioner and others in his field. On motion, the Petitioner asserts that in the Russian dance sport industry, occupational titles often overlap in

function and that there is no formal occupational code or survey category for "head coaches." He cites the *USCIS Policy Manual* in support of his argument that broader occupational categories are permitted. While the Petitioner's reference to our policy is accurate, it does not relieve him of the burden to demonstrate that the salary information he submitted is in fact comparable to the salary he commanded, along with the burden to support his claim that it is significantly high. *See Matter of Chawathe*, 25 I&N Dec. at 375 (stating that a petitioner bears burden of proving eligibility for the benefit sought).

In conclusion, 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.

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.