U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40347393

Date: DEC. 2, 2025

Motion on Administrative Appeals Office Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

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 (EB-5) classification makes immigrant visas available to qualified immigrants who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the U.S. economy and create at least 10 full-time positions for qualifying employees. Aliens may invest in a project associated with a U.S. Citizenship and Immigration Services (USCIS) designated regional center. *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 102-395, § 610, 106 Stat. 1828 (1992), as amended.[1]

Field Operations Directorate (FOD) denied the petition, concluding that the record did not establish that the Petitioner obtained her invested capital through lawful means. We dismissed a subsequent appeal on that basis. The matter is now before us on a 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.

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 information about her past employment, purported receipts for consulting work, bank statements, and related accounting documents. The Petitioner asserts that these new facts establish eligibility by providing corroboration and context for her claims regarding the sources of her income.

[1] The EB-5 Reform and Integrity Act of 2022, enacted March 15, 2022, revised general eligibility requirements, substantially reformed and codified the Regional Center Program in section 203(b)(5) of the Act, and added significant new integrity provisions. *See* Section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). Because the Petitioner filed the petition in November 2017, the relevant law then in existence governs this appellate adjudication.

As we noted in our July 2025 dismissal decision, incorporated by reference, the Petitioner stated that she invested the proceeds from "a $550,000 loan from [redacted] a Florida limited liability company, which she secured with real property located in [redacted] Venezuela." The record indicates that the Petitioner and three of her relatives are the ultimate owners of [redacted]

FOD denied the petition in April 2024, concluding that the Petitioner had not established that she lawfully obtained the funds she invested in the NCE. FOD questioned the credibility of the purchase agreement for a condominium in [redacted] that the Petitioner used as collateral to secure the loan from [redacted], and FOD determined the Petitioner had not provided enough information about her past earnings to demonstrate the claimed lawful source of funds.

When we dismissed the Petitioner's appeal in July 2025, we concluded that the Petitioner had established ownership of the condominium, but had not sufficiently documented the source of the funds with which she purchased that property on November 21, 2008. We acknowledged a certified public accountant's statement that "[t]he source of the funds to purchase the property was derived from Petitioner's accumulated earnings." But we gave that statement little weight, because the accountant wrote the statement in 2020, more than a decade after the purchase, and the accountant cited no documentary evidence or personal knowledge to support this vague and general claim.

With regard to the source(s) of the Petitioner's "accumulated earnings," we observed that the Petitioner had provided inconsistent information about her past employment. Part 1 of Form I-526 instructed the Petitioner to "[p]rovide [her] employment history for the last five years," i.e., from 2012 to 2017. The form provided space for the Petitioner to identify five employers. The Petitioner identified only one employer, stating that she had been president of [redacted] since January 2004. The Petitioner also submitted a résumé, repeating her claim about [redacted] and indicating that she had been president of [redacted] from August 1996 to November 2014.[2] The Petitioner indicated that both positions involved funeral services. She claimed no other employment experience at the time of filing.

FOD concluded that the Petitioner had not submitted sufficient "evidence or information about Petitioner's accumulated earnings" to show that she earned enough to purchase the condominium.

On appeal, the Petitioner made the new claim that she had also worked as a business consultant, earning fees that were substantially higher than her salaries from [redacted]. The Petitioner submitted copies of invoices and receipts, purporting to show that various clients received consulting services from the Petitioner in November and December 2008. The materials indicated that the consulting clients did not pay the Petitioner directly. Instead, they purportedly paid the consulting fees to [redacted] the condominium seller.

The amounts shown on the submitted documents add up to the condominium's stated selling price of Bs. 1,960,330. The claimed services provided included "[c]onsulting and planning of financial year"; "[f]easibility study for the development of a new service sales program"; and "[t]raining and resource management for Sales Staff."

[2] This period overlaps with the five years preceding the filing of the petition, but the Petitioner omitted this employment from Part 1 of Form I-526.

We determined that this new claim lacked credibility because the Petitioner had not previously claimed to have earned any income as a business consultant, despite repeated opportunities to describe and document her employment experience. We concluded that the Petitioner had not sufficiently corroborated her new claim to have worked as a business consultant "throughout her career," and had not shown that she reported her claimed consulting income to Venezuelan tax authorities.

On motion, the Petitioner maintains that her "accumulated earnings include salary from her full-time employment with [redacted] and payments received as a Business Consultant." The Petitioner asserts that her "decades of experience as the President of [redacted]" gave her a "deep understanding of business growth, organizational development, and market positioning."

In a new statement, the Petitioner states her work at [redacted] "included carrying out activities related to the business, which revolved around market studies, consumer profiles, risk analysis, and other points of common interest aimed at ensuring operational success." An accompanying job description on [redacted] letterhead lists general executive responsibilities such as establishing policies, appointing managers, and representing the company.

The Petitioner's statement and job description do not address her work at [redacted] or her more recent claim to have worked as a consultant. The very general descriptions of the Petitioner's claimed work at [redacted] do not address or overcome the stated grounds for dismissal of the appeal, and therefore they do not establish proper cause for reopening the proceeding.

In the separate brief submitted on motion, the Petitioner repeatedly misstates her former employer's name as [redacted] The word [redacted] is consistent with an abbreviation of "[redacted]"[3] But the prior record shows that the word is "[redacted]" consistent with an abbreviation of [redacted] On her own previously submitted résumé, the Petitioner indicated that her work at [redacted] involved "contracts for prearranged funeral services." The coursework described on the résumé likewise relates to funeral services.

On motion, the Petitioner submits a new "limited review opinion" from an accountant, asserting that the Petitioner's "income . . . [from] Consulting services" "was primarily non-recurring." The accountant asserts that "the tax regulations . . . did not expressly contemplate the obligation to declare income of this nature." The accountant also contends that "these compensations were issued in the name of [redacted] . . . Therefore, they were not included in the [Petitioner's] Income Tax return." The accountant does not identify or submit Venezuelan statutes or regulations to support these assertions. In immigration proceedings, the law of a foreign country is a question of fact which must be proven if a petitioner relies on it to establish eligibility for an immigration benefit. *Matter of Annang*, 14 I&N Dec. 502 (BIA 1973). Nothing shows that independent consulting fees were exempt from income tax reporting requirements in Venezuela in 2008.

Furthermore, while the five invoices submitted on appeal show gross amounts that add up exactly to the condominium's purchase price, the documents do not show that the gross amounts were the Petitioner's consulting fees. Rather, each invoice shows a lower fee, plus a 9% value-added tax

[3] Machine translations by *Google Translate*, https://translate.google.com, cross-checked in *Cambridge Dictionary*, https://dictionary.cambridge.org/us/translate, and *Collins Dictionary*, https://www.collinsdictionary.com/translator.

(VAT). For example, one invoice shows Bs. 183,486.24 in "Professional Fees" and VAT of Bs. 16,513.76, for a total of Bs. 200,000.

The receipts show Bs. 1,798,467.90 in fees and Bs. 161,862.10 in VAT. Considering that the clients had purportedly set aside 9% of their payments for the VAT, explicitly distinct from the Petitioner's claimed consulting fees, it appears to be very significant that the Petitioner has claimed that the VAT payments went toward the purchase of the condominium rather than to Venezuelan tax authorities.

The Petitioner also submits a copy of a letter on [redacted] letterhead, dated November 11, 2008, discussing the then-impending sale of the condominium to the Petitioner. The motion brief indicates that this letter "confirm[s] receipt of the property payments made by the consulting clients," but the letter itself does not refer to third-party payments from clients. The letter does not indicate where the Petitioner would obtain the money to purchase the condominium, or that any third parties would make payments on the Petitioner's behalf.

Also, the letter does not indicate that the seller had actually received any payments from any source. The November 11, 2008 date of the letter is earlier than the dates on three of the invoices. The Petitioner had previously claimed on appeal that the payments were issued between November 21 and December 19, 2008. Therefore, this newly-submitted letter does not corroborate key elements of the Petitioner's claims about payment arrangements to demonstrate the lawful source of funds.

Invoices and receipts newly submitted on motion purport to indicate that the Petitioner reviewed and evaluated financial statements for a client called [redacted] in late 2008, receiving a fee of Bs. 83,000. Unlike the invoices previously submitted on appeal, the [redacted] documents do not show any VAT.

[redacted] is not named on financial documents previously submitted on appeal, intended specifically to document the Petitioner's work and income as a consultant outside her employment with [redacted] and [redacted] The Petitioner does not explain why she omitted this information from her prior submissions.

The new materials submitted on motion purport to indicate that [redacted] paid its consulting fees directly to the Petitioner, not to [redacted] The new opinion from the accountant does not specifically mention the claimed payments from [redacted] or explain why they were paid in a different manner from the other consulting fees claimed previously.

The Petitioner's newly claimed income from [redacted] is not consistent with her previous claims and therefore does not establish proper cause for reopening the proceeding.

In our July 2025 dismissal decision, we also concluded that the Petitioner did not establish that the loan from [redacted] was the sole source of the funds she invested in the NCE. The Petitioner had made her investment from an account at [redacted] that held over $100,000 in funds other than the loan proceeds from [redacted] We concluded: "the record lacks sufficient evidence demonstrating the lawful source of other funds held in the same account."

On motion, the Petitioner submits copies of [redacted] statements from 2015-2017, and states that those documents "do not contain any large or unexplained income sources." The statements preceding the loan show withdrawals slightly exceeding deposits, with the account balance declining from

$114,108.20 in December 2015 to $111,555.04 in July 2017. The statements do not establish the source(s) of the $111,555.04 that was in the account when the Petitioner deposited the $550,000 loan proceeds.

The motion brief includes the assertion that the funds in the Petitioner's "[redacted] account derive from her salary earnings throughout the year," but the motion does not include evidence identifying the specific sources and purpose of the deposited payments. Statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight. *Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998).

Apart from nominal credits for account interest, most of the documented deposits into the account are transfers originating from "[redacted]." The motion includes no further information or evidence about [redacted] Two other deposits are from other sources. The Petitioner has not shown that these deposits from different sources, and which vary significantly in both amount and the time intervals between them, constitute her salary payments as claimed.

The evidence submitted on motion does not introduce new facts that show proper cause to reopen the proceeding.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, she has not established eligibility. Therefore, we will dismiss the motion. 8 C.F.R. § 103.5(a)(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.