U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41251472

Date: FEB. 18, 2026

Motions on Administrative Appeals Office Decision

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

In its ninth set of combined motions to reopen and reconsider, the Petitioner continues to challenge our interpretation of the regulatory phrase "last known address." *See* 8 C.F.R. § 103.8(a)(1)(i) ("Routine service consists of mailing the notice by ordinary mail addressed to the affected party and his or her attorney or representative of record at his or her last known address.") The company contends that, contrary to the regulation and due process principles, Service Center Operations (SCOPS) did not mail the notice of intent to revoke (NOIR) the approval of the company's petition to its last known address.

In these petition revocation proceedings, the Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we conclude that the motion to reopen does not meet applicable requirements and that the motion to reconsider does not demonstrate our misapplication of law or policy. We will therefore dismiss the motions.

I. LAW

A motion to reopen must state new facts, supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). In contrast, a motion to reconsider must demonstrate that our prior decision misapplied law or policy based on the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). On motion, regulations limit our scope of review to our most recent decision. 8 C.F.R. § 103.5(a)(1)(i), (ii) (referring to "the prior decision" and "the latest decision in the proceeding"). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

II. THE MOTION TO REOPEN

The Petitioner's motion to reopen neither states new facts nor includes documentary evidence. *See* 8 C.F.R. § 103.5(a)(2). We must therefore dismiss the motion. *See* 8 C.F.R. § 103.5(a)(4) ("A motion that does not meet applicable requirements shall be dismissed.")

III. THE MOTION TO RECONSIDER

Our prior decision found that, in 2018, SCOPS properly mailed the NOIR to the Petitioner at its last address listed in the petition's record. The company, however, had relocated after the petition's 2007 approval and states that it did not receive the NOIR. Because SCOPS did not receive a timely NOIR response from the company, SCOPS revoked the petition's approval. *See Matter of Estime*, 19 I&N Dec, 450, 452 (BIA 1987) (indicating that an untimely NOIR response can result in a petition's revocation). The Petitioner contends that SCOPS should have mailed the NOIR to the company's new address, which it provided to U.S. Citizenship and Immigration Services (USCIS) in 2016 in a petition to extend the Beneficiary's U.S. nonimmigrant work visa status.

On motion, the Petitioner notes that the U.S. Postal Service returned SCOPS' November 2018 revocation notice to the Agency as undeliverable. The company states that it "strongly suspects" that the postal service also returned the prior September 2018 NOIR as undeliverable. Thus, the company suggests that the record showed – and USCIS knew of – the company's relocation before the revocation notice's issuance. *See Jones v. Flowers*, 547 U.S. 220, 225 (2006) (holding that "when mailed notice of a tax sale is returned unclaimed, a state must take additional, reasonable steps to attempt to provide notice to the property owner before selling his property, if it is practicable to do so.") The Petitioner states:

> This information, if available, would only be available to the Agency. The Petitioner can only request the Agency to check their record for the return mail (NOIR) and act accordingly in the interest of protection of the petitioner's due process rights.

As we first stated in our 2021 appellate decision, however, we have checked the record for evidence of any return of the NOIR and have found none. *See Banks v. Dretke*, 540 U.S. 668, 696 (2004) (stating that, in the absence of clear contrary evidence, courts "presume that public officials have properly discharged their official duties.") Thus, the record does not support the Petitioner's suspicions that the postal service returned the NOIR to SCOPS as undeliverable.

The Petitioner cites numerous cases in support of its assertion that:

> [t]he term 'last known address,' while not formally defined in the regulation, has been consistently interpreted through precedent to mean the most recent address *known to the agency as a whole* (based on [the] common meaning of the word *Agency*, not merely the address listed in a specific record of proceeding.)

(emphasis in original).

But none of the cited cases interpret the term "last known address" in 8 C.F.R. § 103.8(a)(1)(i). Rather, most of the cases involve in absentia orders in removal proceedings. *See* section 240(b)(5) of the Act, 8 U.S.C. § 1229a(b)(5). The Act's in absentia provision contains a similar term: "most recent address." *See* section 240(b)(5)(A) of the Act. And the Act further modifies that term with the phrase "provided under section 1229(a)(1)(F) of this title." *Id.* The Petitioner has not demonstrated that the terms "last known address" in 8 C.F.R. § 103.8(a)(1)(i) and "most recent address," as modified in section 240(b)(5)(A) of the Act, have the same meaning. *See* 8 C.F.R. § 103.5(a)(3) ("A motion to

reconsider must ... be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy.")

The Petitioner cites the two remaining cases for the proposition that, unless specifically defined, a regulatory term receives its ordinary, practical meaning. The company argues that the term "last known address" in 8 C.F.R. § 103.8(a)(1)(i) means the last address known to USCIS as a whole, not merely the last addressed stated in the record.

The Petitioner, however, does not cite any legal authorities that have interpreted the term in that manner. Also, as we indicated in a prior decision, one federal court rejected that interpretation. *See Wah Yuet (USA) Inc. v. Ashcroft*, No. CV 04-9145 CAS (SSx), 2006 WL 8430892, *7 (C.D. Cal. Apr. 13, 2006) (affirming the validity of USCIS' service of a NOIR to a petitioner at its last known address rather than at its then-current address).

IV. CONCLUSION

The motion to reopen does not meet applicable requirements. The motion to reconsider does not demonstrate that our prior decision misapplied law or policy.

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.