U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35117479

Date: JAN. 21, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks first preference immigrant 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).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that she satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). We dismissed the appeal and a subsequent combined motion to reopen and reconsider. The matter is now before us on 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). The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). Therefore, we will only consider new evidence to the extent that it pertains to our latest decision dismissing the combined motion to reopen and reconsider. We may grant motions that satisfy the 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). Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior motion.

The current motion asserts that the Petitioner has established the criteria for a lesser national or international prize, published material, contributions of major significance in the field, and that the Petitioner has performed a leading or critical role for an organization with a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(i), (iii), (v), and (viii). Petitioner did not argue eligibility for any of these criteria in the prior motion. As noted above, we will only consider new evidence to the extent that it pertained to our latest decision.

Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision. We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.