U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40852121

Date: JAN. 23, 2026

Motions on Administrative Appeals Office Decision

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

The Petitioner, an accounting and tax consultant, requests classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence status in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition and dismissed the Petitioner's six following combined motions to reopen and reconsider. SCOPS concluded that she met one of ten initial evidentiary requirements for the requested immigrant visa category – two less than needed for a final merits determination. *See* 8 C.F.R. § 204.5(h)(3). We dismissed the Petitioner's appeal, affirming SCOPS' findings that her sixth combined motions did not meet applicable requirements. *See In Re: 30146595* (AAO Aug. 27, 2025).

The matter returns to us on the Petitioner's combined motions to reopen and reconsider. She 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 neither motion meets applicable requirements nor demonstrates her eligibility for the requested benefit. We will therefore dismiss them.

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 establish 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 prior decision. *See* 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. ANALYSIS

Our prior decision upheld SCOPS' findings that, contrary to applicable requirements, the Petitioner's last motion to reopen did not state new facts or contain documentary evidence. *See* 8 C.F.R. § 103.5(a)(2). We also found that her last motion to reconsider did not demonstrate SCOPS' misapplication of law or facts. *See* 8 C.F.R. § 103.5(a)(3).

A. The Motion to Reopen

On motion, the Petitioner submits a letter from herself and a copy of a 2018 tax registration certificate for a business she operates. The letter states new facts, indicating that she has petitioned U.S. Citizenship and Immigration Services (USCIS) "for another work visa in a different category." But the Petitioner did not submit documentary evidence of the other petition. Also, the new information does not demonstrate that her last motion to reopen contained new facts or documentary evidence, or that her last motion to reconsider demonstrated SCOPS' misapplication of law or facts. *See* 8 C.F.R. § 103.5(a)(1)(i), (ii) (limiting the scope of our jurisdiction to our prior decision).

The remainder of the Petitioner's letter discusses her arrival in the United States 19 years ago and her business activities in this country. The record, however, already contained this information. Thus, the letter's remainder lacks new facts and does not demonstrate her eligibility for the requested benefit.

The copy of the 2018 tax registration certificate is documentary evidence. But the record shows that the Petitioner's initial petition filing included the document. Thus, the tax registration certificate is not a new fact and, having been already considered, does not demonstrate her eligibility for the requested benefit. We will therefore dismiss the motion to reopen. *See* 8 C.F.R. § 103.5(a)(4) (requiring dismissal of "[a] motion that does not meet applicable requirements").

B. The Motion to Reconsider

The Petitioner contends that she previously submitted "numerous affidavits reflecting new facts and other new information." The record, however, shows that her last motions did not contain new facts or new information. *See* 8 C.F.R. § 103.5(a)(1)(i), (ii) (limiting the scope of our jurisdiction to our prior decision). Her last filings included only her Form I-290B, Notice of Appeal or Motion, and her letter, which reasserted previously stated facts.

The Petitioner also argues that she qualifies for adjustment of status in the United States. *See* section 245(a) of the Act, 8 U.S.C. § 1255(a). Referring to an adjustment bar under section 245(c)(2) of the Act, she states: "[M]y inability to maintain my lawful nonimmigrant status was through no fault of my own or for technical reasons." We, however, generally lack jurisdiction to review an alien's eligibility to adjust their status. *See* 8 C.F.R. § 245.2(a)(5)(ii) ("No appeal lies from the denial of an application [for adjustment of status]."). Also, the Petitioner's eligibility to adjust (or lack thereof) does not demonstrate that her last motion to reopen in this petition proceedings stated new facts and contained documentary evidence or that our prior decision misapplied law or policy. *See* 8 C.F.R. § 103.5(a)(1)(i), (ii) (limiting the scope of our jurisdiction to our prior decision).

III. CONCLUSION

The Petitioner's motions to reopen and reconsider neither meet applicable requirements nor demonstrate her eligibility for the requested benefit. We will therefore affirm her appeal's dismissal.

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.