U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36171028

Date: JAN. 30, 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 that he satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). 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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(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 several new pieces of evidence for the claimed criteria. Regarding the lesser award criterion at 8 C.F.R. § 204.5(h)(3)(i), the Petitioner presented the Wikipedia page for the Republican Guard (Kazakhstan) and Wikipedia page for the State Security Service (Kazakhstan). These documents provide general information about the givers of the claimed awards. However, neither of these documents address the deficiencies we noted in our prior decision, namely that the Petitioner did not present sufficient documentation that the claimed awards were significant in the field or that the awards reflect national or international recognition.

In support of the criterion regarding membership in an association requiring outstanding achievement of its members under 8 C.F.R. § 204.5(h)(3)(ii), the Petitioner presented the "ABOUT US" page from the [redacted] website detailing the members of the team, an Instagram page for [redacted] a letter of recommendation from [redacted] and a webpage for the Kazakhstan Boxing Federation listing the members of their Judicial Commission. Again, this evidence does not

address the deficiencies in the record that we noted in our prior decision. The decision stated that the evidence provided did not establish that membership in the organizations required outstanding achievements or that membership was judged by experts in the disciplines. The Petitioner claims that the [redacted] webpage contains a list of experts but does not explain how this evidence is relevant to the criterion requirements. The webpage lists a number of individuals with [redacted] fighting training of various tenures but has no further information. We also observe that the webpage does not reference the [redacted] and their affiliation with the [redacted] is unclear from the webpage. The letter from [redacted] does not contain information on the requirements for membership. The Petitioner also cites to the Judicial Commission of the Kazakhstan Boxing's webpage to support his claim that the [redacted] history and leadership signify it is an esteemed institution. Nevertheless, he does not explain how the webpage supports this contention as it only contains photos of four individuals and lists their titles, but has no further information, such as their names or any other details.

Finally, we also note that some of the evidence for this criterion was not properly translated. Any document in a foreign language must be accompanied by a full English language translation, and a certification from the translator that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). The Instagram page has no accompanying English translation, and the letter from [redacted] does not include a proper certificate of translation. The certificate states that the translation was made from Kazakh and Russian into English but does not confirm that the translation is complete and accurate or that the translator is competent to translate in the relevant languages. Evidence not complying with the requirements of 8 C.F.R. § 103.2(b)(3) does not have any evidentiary weight and will not be considered. Therefore, the Petitioner has not demonstrated he meets the criterion's requirements.

The Petitioner additionally claims that he has made original contributions of major significance in his field to meet the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(v). In prior filings, the Petitioner argued he qualified for eligibility based on his methodology and coaching. He averred that this was a major significance to the [redacted] and the self-defense field. In the current motion, the Petitioner has presented evidence he argues demonstrates that his methodology has made a significant contribution in advancing the health and well-being of organ transplant recipients in his country. First, we observe that the letters from [redacted] and the Instagram page from [redacted] do not comply with the requirements for foreign language documents. The Instagram page has no accompanying English language translation. The certificates of translation accompanying the letters state that the translations were made from Kazakh and Russian into English but do not confirm that they are complete and accurate or that the translators are competent to translate in the relevant languages. Evidence not complying with the requirements of 8 C.F.R. § 103.2(b)(3) does not have any evidentiary weight and will not be considered.

The remaining evidence for this criterion consists of an article and a Facebook posting. The article discusses the [redacted] for organ transplant recipients and dialysis patients. The Facebook post discusses a roundtable talk held at the [redacted] on sports as part of organ transplant recipients' rehabilitation. However, neither mentions the Petitioner or his methodology. Thus, the Petitioner has not presented sufficient evidence to establish he qualifies for the criterion.

Next, to support the Petitioner's claim that he has performed a leading or critical role for a distinguished organization or establishment under 8 C.F.R. § 204.5(h)(3)(viii) the Petitioner cited to several new documents. However, he did not explain any of the documents' relevancy or how they establish his claims that the organizations he was involved in were distinguished. Furthermore, several documents did not comply with the plain language requirements regarding foreign language documents under 8 C.F.R. § 103.2(b)(3). For instance, the Petitioner presented the letter from [redacted] and the Instagram page for [redacted] which we outlined previously did not comport with the regulations. He also submitted the Instagram page for [redacted] but did not provide an English language translation. As noted previously, evidence not translated in accordance with the requirements of 8 C.F.R. § 103.2(b)(3) does not have any evidentiary weight and will not be considered. As such, the Petitioner has not presented evidence sufficient to reopen the decision.

A motion to reconsider 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). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner contests the correctness of our prior decision. The motion states that the prior decision contained significant errors, and that it was "apparent from the language of the decision that Petitioner has been held to an inappropriately high standard." To support that statement, the brief points to our prior decision's use of the statement: "the reference letters do not offer sufficiently detailed information," which the Petitioner argues suggests "personal judgement and opinion, which signals the application of an unreasonably high bar." The language referenced from our prior decision is contained in the section regarding contributions of major significance criterion (8 C.F.R. § 204.5(h)(3)(v)). It refers to reference letters provided in support of the criterion. We have reviewed the analysis in this section. It provides sufficient reasoning on why the letters were not determined to have adequate detail. We ascertain that the correct standard of proof was applied to this section. The Petitioner does not elaborate, beyond the above statement, where or how they view that such a standard was applied. Our review of the decision and the record finds no instances of us applying a stricter standard as the Petitioner asserts.

Concerning the lesser award criterion at 8 C.F.R. § 204.5(h)(3)(i), the Petitioner avers that the decision stated that a lack of evidence regarding media coverage or trade publication recognition constituted error, and that such statement was misguided as the USCIS Policy manual notes a different issue as the criterion's primary focus. The Petitioner's argument is misplaced as our prior decision did not make such a declaration. We observe that our prior decision states only that the Petitioner did not provide supporting evidence that demonstrated the awards' level of recognition, which could include, but is not limited to, media coverage.

Regarding the remaining claimed criteria under 8 C.F.R. § 204.5(h)(3)(ii), (v) and (viii), the Petitioner's arguments on those criteria focus on his new evidence, as outlined above, and does not point to any error of law or policy made in the prior decision.

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.