U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36550650

Date: JAN. 30, 2025

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary 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 had demonstrated her extraordinary ability in the totality of the circumstances. 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 pieces of evidence to support her argument that she qualifies for the criterion under 8 C.F.R. § 204.5(h)(3)(i) as the recipient of a lesser nationally or internationally recognized prize or award for excellence in the field of endeavor.

First, we observe that the letter from Dr. [redacted] is not new evidence as it was provided in a previous submission. Additionally, several of the documents are dated after the date of filing. A petitioner must meet all the eligibility requirements of the petition at the time of filing. 8 C.F.R. § 103.2(b)(l), (12).

The Petitioner also included documents regarding her employment with the [redacted] production. The Petitioner has previously submitted a variety of documents regarding her employment with the show. The new letter from [redacted] the Director of [redacted] mentions some of the prizes she previously received in competitions but does not provide further information on those awards. As

such, the letter does not help establish the criterion. Moreover, the show itself is an artistic performance, not a competition that awards prizes. The Petitioner does not explain how her participation in [redacted] relates to this criterion. Additionally, the Petitioner submitted photos from various performances and her activities organizing camps and competitions. The criterion concerns the receipt of awards. As such, this evidence is not determinative of the criterion.

Finally, the Petitioner submitted various photos from competitions the Petitioner competed in. The Petitioner also provided a letter from [redacted] the President of the [redacted] As noted in our prior decision, the Petitioner did not provide sufficient evidence that the awards she received have national or international recognition. 6 *USCIS Policy Manual* F.2(B), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2. This letter and photos do not adequately resolve this deficiency. The photos attest to the Petitioner's participation in these competitions, but do not elucidate the awards' recognition. Ms. [redacted] mentions some of the competitions the Petitioner participated in and conclusory states her victories reflect her extraordinary ability. The letter does not provide adequate detailed information to establish that the awards have the requisite recognition to qualify under the criterion.

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 argues her eligibility for the requested classification but has not pointed to any incorrect application of law or policy in our prior decision. We observe that the Petitioner has pointed to a number of our non-precedent decisions, as well as *Matter of Price*, 20 I&N Dec. 953 (Assoc. Comm'r 1994) to act as comparisons to her case. The Petitioner has also stated the preponderance standard as the proper applicable standard of proof. As noted, the Petitioner did not allege any error in the prior decision. Disagreeing with our conclusions without showing that we erred as a matter of law is not a ground to reconsider our decision. *See e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). As such, the Petitioner has not established basis to reconsider the prior decision.[1]

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.

[1] We further observe that non-precedent decisions do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c).