U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38599672

Date: JUL. 03, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a businessman, seeks classification as an individual of extraordinary ability. This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

Service Center Operations (SCOPS) denied the petition. We summarily dismissed the Petitioner's appeal and two subsequent motions. The matter is now before us on the third combined motion to reopen and motion to 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 combined motion.

We incorporate by reference our prior analysis in our decision on the appeal and in the subsequent motions. By way of summation, the record does not establish that the Petitioner received a one-time (that is, a major, internationally recognized award) contemplated by the regulation at 8 C.F.R. § 204.5(h)(3), or that the Petitioner meets at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). We summarily dismissed the appeal because the Petitioner did not specifically identify an erroneous conclusion of law or statement of fact in the SCOPS decision. *See* 8 C.F.R. § 103.3(a)(1)(v). On motions, the Petitioner acknowledged that he failed to send the appeal brief to the AAO but contended that the regulations required review of the brief sent to the service center rather than the AAO. In dismissing the Petitioner's two combined motions to reopen and reconsider, we determined that the Petitioner had not identified new facts or an error of law or policy.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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 to reopen, the Petitioner submits a copy of our prior decisions and a brief. However, he does not submit new facts or documentary evidence. Because the Petitioner's motion does not include

new facts supported by documentary evidence, it does not satisfy the plain language requirements of a motion to reopen, and it must be dismissed. *See* 8 C.F.R. §§ 103.5(a)(2), (4).

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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. §§ 103.5(a)(1)(i)-(ii).

On motion to reconsider, the Petitioner contends that in our dismissal of his first motion, we incorrectly referenced 8 C.F.R. § 103.3(a)(2)(viii) (explaining that when granting additional time, the affected party shall submit the brief directly to the AAU). *See* 8 C.F.R. § 103.3(a)(2)(viii). Because we had not granted additional time to the Petitioner, he argues this regulation did not apply to him. He reasserts that he was not required to submit the additional evidence directly to the AAO, and maintains that the brief sent to the field office should have been considered. In our dismissal of the second motion, we addressed this argument and explained that 8 C.F.R § 103.2(a)(1) and the filing instructions for the Form I-290B require the Petitioner to submit the appeal brief directly to the AAO. In reasserting this claim, the Petitioner discusses facts and issues we have already considered in our previous decisions.

He does not establish on motion how we may have incorrectly applied a law or U.S. Citizenship and Immigration Services (USCIS) policy, nor does he reference any pertinent precedent decisions. Because the Petitioner's motion does not establish how we may have incorrectly applied a law or USCIS policy, supported by any pertinent precedent decisions, it does not satisfy the requirements of a motion to reconsider, and it must be dismissed. *See* 8 C.F.R. §§ 103.5(a)(3)-(4); *see also Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (providing that a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.