U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42783112

Date: JUN. 04, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks 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). 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, concluding the Petitioner had not demonstrated a one-time achievement or satisfaction of at least three of the ten categories of evidence. We dismissed the Petitioner's appeal and three subsequent combined motions to reopen and reconsider. The matter is now before us on a fourth combined motion to reopen and reconsider.[1]

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 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). 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, issued in January 2026, and contends that the decision "fails to identify the legal standard applied or to cite the specific provisions of the Administrative Procedure Act ("APA") governing the adjudication." However, our January 2026 decision clearly identifies and applies the regulations which govern motions under 8 C.F.R. § 103.5. The decision cites and quotes the regulations for a motion to reopen under 8 C.F.R.

[1] On motion, the Petitioner contends that the prior motion erred by stating that it was the third motion before us. The Petitioner asserts that there have been four motions before the instant combined motion. He is including the rejected motion in his calculation. However, "USCIS does not consider benefit requests that are rejected to be properly filed." 8 CFR 103.2(a)(7). Therefore, the instant motion is the fourth before us at the AAO.

§ 103.5(a)(2) and those for a motion to reconsider under 8 C.F.R. § 103.5(a)(3). Further, the instant motion states that our January 2026 decision did not provide a separate and meaningful analysis of the motion to reopen and motion to reconsider. However, the January 2026 decision sufficiently addresses both motions. For example, in the section related to the Petitioner's motion to reopen, our decision discusses the Petitioner's claims regarding his qualifications as an individual of extraordinary ability and his untimely filing. In addressing the motion to reconsider, our decision reiterates that we do not have discretion to accept late filed motions to reconsider per 8 C.F.R. § 103.5(a)(1)(i), and therefore the Petitioner did not establish that our decision was incorrect as a matter of law or policy. In addition, the Petitioner contends that our previous decision failed to address the merits of the case and limited its analysis to procedural issues. However, our decision acknowledges both the Petitioner's claims based on the merits of the case and the procedural issues, correctly stating that the scope of a motion is limited to the prior decision, and therefore we only review the latest decision in the proceedings. 8 C.F.R. § 103.5(a)(1)(i),(ii). Therefore, our January 2026 decision properly limits analysis to our decision regarding the second motion and does not re-adjudicate the underlying petition.

On this motion, the Petitioner also introduces various claims that are related to the initial rejection of his first motion and the subsequent untimely filing. The Petitioner contends that the initial motion was improperly rejected and states that "[n]o statute or regulation requires rejection solely due to overlapping checkbox selection where all threshold filing requirements are satisfied" and that the "rejection converted a timely filing into an untimely one." Further, the Petitioner asserts that this rejection exceeded the limited administrative purpose of the lockbox intake authority and that by selecting USPS mail, USCIS undermined the procedural protections afforded by 8 C.F.R. § 103.5(a)(1)(i), which provides a 30-day filing period; 33 days if sent by mail. Here, the Petitioner contests our rejection of the initial motion and does not address our January 2026 decision. Therefore, he has not established that our January 2026 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). Accordingly, we will dismiss the motion to reconsider.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 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). 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 new evidence of medical exams and an affidavit. Although he submits new evidence, the facts before us are not new, as his medical history was addressed in our January 2026 decision. The Petitioner submits evidence of a new medical exam performed in February 2026, which states that he has been experiencing certain symptoms since 2021. The Petitioner attests that "[d]uring the relevant filing period associated with [his] Form I-290B submission" he was experiencing symptoms that "affected [his] ability to process documentation efficiently and respond with full mental clarity during that time." As discussed above, 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 January 2026 decision, dismissing the motion to reopen. Here, the Petitioner has not provided new facts to establish that we erred in dismissing the prior motion. Because the Petitioner has not

established new facts that would warrant a 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.

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.

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.