U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39798408

Date: OCT. 7, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner files its eighth set of combined motions to reopen and reconsider. The company contends that, contrary to regulation, Service Center Operations (SCOPS) did not mail the notice of intent to revoke (NOIR) the petition's approval to it at its "last known address."

In these revocation proceedings, the Petitioner continues to bear the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Ho*, 19 I&N Dec. 582, 589 (BIA 1988) (citation omitted). Upon review, we conclude that the motion to reopen does not meet applicable requirements and that the motion to reconsider does not demonstrate our misapplication of law or policy. We will therefore dismiss the filings.

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 demonstrate 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, our scope of review is limited to our prior decision. 8 C.F.R. § 103.5(a)(1)(i), (ii) (referencing "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. MOTION TO REOPEN

The Petitioner's filing neither states new facts nor includes documentary evidence. Thus, we will deny the motion to reopen. *See* 8 C.F.R. § 103.5(a)(4) (requiring dismissal of "[a] motion that does not meet applicable requirements.")

III. MOTION TO RECONSIDER

The Petitioner challenges our interpretation of the regulatory phrase "last known address." Our prior decision found that, in 2018, SCOPS mailed the NOIR to the company's last address listed in this record. *See* 8 C.F.R. § 103.8(a)(1)(i) ("Routine service consists of mailing the notice by ordinary mail

addressed to the affected party … at [its] last known address.") The company, however, relocated after the petition's 2007 approval and states that it did not receive the NOIR.

The Petitioner contends that SCOPS should have mailed the NOIR to the company's new address, which it listed on a 2016 petition to extend the Beneficiary's nonimmigrant work visa status. The company maintains that the regulatory phrase "last known address" refers not to its last address listed in this file, but rather to its last address provided to U.S. Citizenship and Immigration Services (USCIS) in any filing. The company asserts:

> The regulations refer to the last known address to the Agency (not limiting it to a particular case record or to any specific office of the agency). It does not restrict the knowledge of address to the record of proceeding in a specific case only or to a specific office only. Rather it refers to the knowledge of the last known address to the Agency as a whole.

(emphasis in original).

As previously indicated, the regulation states: "Routine service consists of mailing the notice by ordinary mail addressed to the affected party … at [its] last known address." The regulations do not define the term "last known address" and do not specify whether it means a party's last address listed in the file or their last address known to USCIS in any filing.

Each immigration petition or application, however, is a separate record of proceedings. *See* 1 *USCIS Policy Manual* E.2(A) ("A record of proceedings is the organized, official material constituting the record of any application, petition, hearing, or other proceedings before USCIS.") "A determination of statutory eligibility shall be based only on information contained in the record of proceeding." 8 C.F.R. § 103.2(b)(16)(ii). Thus, when adjudicating a petition or application, USCIS generally may not look beyond the applicable record.

Moreover, the Petitioner does not cite any legal authority to support the company's interpretation of the regulatory phrase "last known address" as referring to the company's last address known by USCIS. *See* 8 C.F.R. § 103.5(a)(3) (requiring a motion to reconsider to "be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy"). Thus, the company has not established our prior decision's misapplication of law or policy.

Federal courts have required government agencies to make reasonable inquiries into parties' addresses if the agencies learn, before issuing decisions, that their notice attempts have failed. *See Jones v. Flowers*, 547 U.S. 220, 225 (2006); *Caplash v. Johnson*, 230 F. Supp. 3d 128, 140-41 (W.D.N.Y. 2017). But, contrary to those cases, the record here does not indicate that, before revoking the petition's approval, USCIS knew that the Petitioner had not received the NOIR.

III. CONCLUSION

The motion to reopen does not meet applicable requirements, and the motion to reconsider does not demonstrate our misapplication of law or policy.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

NOTICE: Aliens who are unlawfully present, or who are otherwise inadmissible or deportable, may receive Forms I-862, Notices to Appear, placing them in removal proceedings. *See* section 240 of the Act, 8 U.S.C. § 1229a. Removal proceedings may result in an alien's removal from the United States and ineligibility for future U.S. visas or other immigration benefits.