U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40510836

Date: OCT. 24, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a materials engineer and economist, seeks classification as an alien 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 that the Petitioner did not establish that he satisfied at least three of the ten initial evidentiary criteria. 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).

The Petitioner indicates on the Form I-290B, Notice of Appeal or Motion, that his submission is both a motion to reopen and a motion to reconsider. The Petitioner also submits a brief that refers to the submission as a "Motion I-290B to Reopen and Reconsider." However, the Petitioner does not identify a new fact, nor does he submit documentary evidence of such a fact in support of the motion. Because the submission does not identify a new fact, and it is not supported by documentary evidence of such a fact, it does not satisfy the requirements of a motion to reopen. *See* 8 C.F.R. § 103.5(a)(2). Therefore, the motion to reopen will be dismissed. 8 C.F.R. § 103.5(a)(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). As stated above, the scope of a motion is limited

to the prior decision, therefore, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii).

On motion, the Petitioner contests the correctness of our prior decision stating that we "misapplied controlling law and overlooked probative evidence in the record." The Petitioner asserts that he meets the following three evidentiary criteria to establish extraordinary ability; membership in associations that require outstanding achievement, original contributions of major significance in the field, and performing a leading or critical role for organizations with a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(ii), (v), and (viii). SCOPS determined that the Petitioner did not meet any of the three claimed criteria and we agreed on appeal.

Specifically, we concluded that the Petitioner did not establish that the [redacted] is an association in the field that requires outstanding achievements of their members. 8 C.F.R. §204.5(h)(3)(ii). The record contains evidence of the Petitioner's employment with the [redacted] and the Petitioner asserts on motion that although it is not a "'traditional' association. . . the plain text of 8 C.F.R. § 204.5(h)(3)(ii) does not mandate bylaws, organizational charters, or external publications as proof of selectivity." He states that these regulations only require evidence that membership is based on outstanding achievements as judged by experts in the field and that the [redacted] senior officials are experts that confer rank "only through rigorous vetting, sustained achievements, and expert evaluation" and therefore, the Petitioner meets this criterion. However, similar arguments were presented and addressed on appeal. Additionally, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe,* 25 I&N Dec. at 376. The Petitioner's identification card, which contains his photograph, name, and title does not support his claims regarding the [redacted] their senior officials, and their criteria for conferring rank on individuals. The record also contains a letter of recommendation from the [redacted] which confirms the Petitioner's employment and praises his work but does not discuss the criteria required to be a member in order or us to determine that his membership is based on outstanding achievements or that his qualifications were judged by recognized national or international experts in their disciplines or fields. Therefore, the Petitioner has not met this criterion.

The Petitioner further asserts on motion, that "professional rank and government appointments serve the same function as selective memberships in professional associations" and therefore his evidence could be considered comparable evidence. However, if the Petitioner wishes to submit comparable evidence, he must first establish that this criterion does not apply to his occupation. The Petitioner does not make this assertion. In fact, the Petitioner has claimed multiple times in the record that he meets this criterion. Therefore, we will not consider the submitted documentation as comparable evidence. 8 C.F.R. §204.5(h)(4). However, even if we were to consider the evidence as comparable, as discussed above, the evidence in the record does not establish his membership is based on outstanding achievements as judged by experts in the field and therefore he would still not establish eligibility for this criterion.

The Petitioner additionally asserts that he meets the criteria for contributions of major significance in the field and performing a leading or critical role for organizations with a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(v), and (viii). The Petitioner does not state the reasons for reconsideration, support those reasons with any pertinent precedent decision to establish that the decision was based

on an incorrect application of law or policy, and establish that the decision was incorrect based on the evidence in the record at the time of the decision. The Petitioner restates similar arguments to what were already presented, reviewed, and addressed in our prior decision. For example, the Petitioner asserts that he developed a procurement monitoring and financial control system that was used by his employer and other organizations. Our appellate decision concludes that the Petitioner did not establish how his computer program rises to the level of major significance, nor does the record provide specific information on the program's implementation beyond the Petitioner's employer. Disagreeing with our conclusions without showing that we erred as a matter of law is not a ground to reconsider our decision. *See Matter of O-S-G-*, 24 I&N Dec. at 58 (finding that a motion to reconsider is not a process by which the party may submit in essence, the same brief and seek reconsideration by generally alleging error in the prior decision). The Petitioner has not demonstrated how we erred in our application of law or USCIS policy in our appellate decision. Therefore, the Petitioner has not shown proper cause for reconsidering our decision on its appeal.

The Petitioner did not identify any new facts, or submit any additional documentary evidence of such facts, and therefore, the Petitioner has not established eligibility for a motion to reopen. 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.