U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-D-M-

DATE: SEPT. 26, 2017

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a pop singer, seeks classification as an individual of extraordinary ability in the arts. *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.

The Director of the Texas Service Center denied the petition. We dismissed the subsequent appeal, concluding that the Petitioner did not establish that he received a major, internationally recognized award or satisfy at least three of the initial evidentiary criteria.

The matter is now before us on a motion to reconsider. Upon review, we will deny the motion.

U.S. Citizenship and Immigration Services (USCIS) must dismiss a motion that does not satisfy applicable requirements. 8 C.F.R. § 103.5(a)(4). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent decisions to establish that the decision was based on an incorrect application of law or USCIS policy. 8 C.F.R. § 103.5(a)(3). A motion "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." *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006).

The Petitioner submitted a brief in support of the motion before us. However, the substance of the brief is predominantly a verbatim copy of language in the brief submitted in support of the appeal. In addition to being, in essence, the same brief presented in support of the appeal, the brief does not reference a specific statute, USCIS policy, or any pertinent decision to establish that our prior decision was based on an incorrect application of a law or policy.

The only regulation cited in the predominantly verbatim briefs is 8 C.F.R. § 204.5(h)(3), which recites initial evidence that a petitioner seeking classification as an individual of extraordinary ability in the arts must submit to USCIS for review. The context of this reference is the Petitioner's belief that he has satisfied at least three of those criteria.

A petitioner does not necessarily establish eligibility for the requested benefit by submitting initial evidence. *See* Matter of Chawathe, 25 I&N Dec. 369, 376 (AAO 2010). Instead, upon receipt of

initial evidence USCIS must "examine each piece of evidence for relevance, probative value, and credibility" to determine whether a petitioner has demonstrated eligibility for the requested benefit. *Id.*

Therefore, the briefs' verbatim reference to the petitioner's initial evidence requirement neither expressly nor implicitly alleges that the appeal dismissal was based on an incorrect application of law or policy; it simply states that which a petitioner must submit to USCIS for review and generally alleges, by implication, that we erred by determining the Petitioner did not establish eligibility. *See* 8 C.F.R. § 103.5(a)(3).

Accordingly, we must deny this motion to reconsider because it does not satisfy applicable requirements. 8 C.F.R. § 103.5(a)(3)-(4); *Matter of O-S-G-*, 24 I&N Dec. at 58.

ORDER: The motion to reconsider is denied.

Cite as *Matter of C-D-M-*, ID# 927777 (AAO Sept. 26, 2017)