U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39558074

Date: SEP. 30, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a journalist and editor, seeks classification as an alien of extraordinary ability under section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who 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 evidence did not satisfy at least three of the ten initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). We dismissed a subsequent appeal and this matter is now before us on a motion to reconsider. Upon review, we will dismiss the motion.

A motion to reconsider must show 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 meet these requirements and establish eligibility for the requested benefit. The Petitioner bears the burden of establishing her eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

The Petitioner claimed to have met nine of the ten regulatory criteria before SCOPS: receipt a lesser nationally or internationally recognized awards for excellence in her field; membership in associations in the field requiring members' outstanding achievements, as judged by recognized experts; published material about herself; judging others' work; original contributions of major significance in the field; display of her work at artistic exhibitions or showcases; leading or critical role for distinguished organizations; a high salary or remuneration for services, in relation to others in the field; and commercial successes in the performing arts. 8 C.F.R. § 204.5(h)(3)(i)-(v), (vii)-(x). SCOPS concluded that the record satisfied only two criteria at 8 C.F.R. § 204.5(h)(3)(iv) (participation as a judge of the work of others) and (viii) (leading or critical role for distinguished organizations), and denied the case as the record did not satisfy at least three of the nine regulatory criteria she claimed.

On appeal, the Petitioner claimed and provided arguments for only four of the nine regulatory criteria she previously claimed below, comprising 8 C.F.R. § 204.5(h)(3) (i), (iv), (viii) and (ix), and we agreed with SCOPS she has met two of these four criteria at 8 C.F.R. § 204.5(h)(3)(iv) (judging others' work) and (viii) (leading or critical role). We further determined and explained why the evidence did not

satisfy the two remaining criteria the Petitioner asserted on appeal at 8 C.F.R. § 204.5(h)(3)(i) (receipt of a lesser nationally or internationally recognized awards for excellence in her field) and (ix) (a high salary for services, in relation to others in the field).[1]

With respect to 8 C.F.R. § 204.5(h)(3)(i) (lesser recognized awards for excellence in the field), we determined that although she submitted evidence of a 2015 [redacted] Award from [redacted] and letters of appreciation from the [redacted] for the [redacted] award, her assertions and the submitted documents were unclear as to whether she received one award or two distinct awards. Even if they were two different awards, we further determined that the record lacked objective evidence of their claimed national or international renown, contrary to her claim. We also considered the various support letters attesting to her receipt of the 2015 [redacted] award and [redacted] letters of appreciation, but determined that the support letters lacked probative detail as to their claimed widespread reputation and acclaim, and the record did not otherwise contain independent evidence of their national or international recognition as regulation requires. Additionally, we noted that two support letters, purportedly written by two different [redacted] officials five years apart in 2019 and 2024, were nearly identical, calling into question their evidentiary weight.

We also explained why the evidence of record did not demonstrate that she has "commanded a high salary or other significantly high remuneration for services, in relation to others in the field" as set forth in 8 C.F.R. § 204.5(h)(3)(ix). We specifically determined that her comparative salary data for "journalists" and "senior journalists" in Nepal (consisting of former employer letters and letters from the Minimum Wage Fixation Committee) did not closely relate to the occupation in which she received her earnings as a "senior global editor." Although she also provided evidence of a job offer with a $60,000 annual salary in the United States as a "consultant editor," the record lacked objective comparative salary data that may help determine whether the offered salary is high compared to other consultant editors in this country. We thus determined that the record did not show a high salary or other remuneration for services *in relation to others in the field*, which is interpreted as permitting comparisons to those employed *in the same occupation at a similar level*. *See, e.g.*, *Berardo v. USCIS*, No. 3:19-CV-01796-SB, 2020 WL 6161459, at *5 (D. Or. Oct. 20, 2020) ("[T]he appropriate test compares the petitioner's salary with the average salary of others in the same position in the field."); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information of those performing lesser duties is not a comparison to others in the field).

Because the above two evidentiary criteria have not been met, and the record thus did not satisfy at least three of the four regulatory criteria she claimed on appeal, we could not conclude she is an alien of extraordinary ability and dismissed the appeal without further analysis of the merits under the Act. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119 (9th Cir. 2010); *see also Nagaiah v. Allen*, F.Supp.3d, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa.").

As stated, 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). The Petitioner's assertions in her motion to reconsider

[1] The Petitioner did not address or dispute on appeal SCOPS' determination that the record did not satisfy the other five regulatory criteria she also previously claimed below, and we thus deemed them waived on appeal. *See Matter of Garcia*, 28 I&N Dec. 693 n.1 (BIA 2023) (noting that issues not raised on appeal are waived) (citation omitted).

reiterate facts, issues, and arguments we have already considered in our prior decision. She "respectfully requests" us to "reconsider the petition and adjudicate it favorably," and "urge[s]" us to conduct a "holistic" reevaluation, considering the totality of her circumstances. But apart from these assertions, she does not assert, specify, or explain how we erred in applying law or policy in our last decision based on the evidence then before us when we dismissed the appeal. 8 C.F.R. § 103.5(a)(3); *see also Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (stating 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 in the prior Board decision").[2] We will not re-adjudicate the petition anew and, thus, the underlying petition remains denied. The Petitioner has not met the requirements of a motion to reconsider, and accordingly the following order will be entered.

ORDER: The motion to reconsider is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). 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.

[2] The Petitioner submits evidence of a new 2024 award she received in New York along with a one-page media post describing it, which she claims "further establish her sustained acclaim and recognition in a global context." But we do not consider new evidence on a motion to reconsider. Further, the Petitioner does not explain how this new evidence specifically overcomes our prior determinations in dismissing her appeal that the evidence then before us did not satisfy the two requisite threshold regulatory criteria as set forth in 8 C.F.R. § 204.5(h)(3)(i) and (ix), as discussed above.