PUBLIC COPY

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

B2

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, DC 20536

[redacted]

File: [redacted] Office: Nebraska Service Center Date: MAY 19 2003

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Nebraska Service Center, and certified to the Administrative Appeals Office (AAO) for review. The AAO affirmed the director's denial. The matter is now before the AAO on motion. The motion will be dismissed.

According to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. According to 8 C.F.R. § 103.5(a)(3), a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Bureau policy.

The AAO affirmed the director's denial in a decision dated January 2, 2002. On February 20, 2002, the Service, now the Bureau, received a *signed* letter and fee from the petitioner stating that the letter constituted his motion to reopen and reconsider.[1] The petitioner asserted that he disagreed with the AAO's decision and that he would submit additional information under a separate mailing.

First, the motion is untimely. 8 C.F.R. § 103.5(a)(1)(i) states that a motion must be filed within 30 days of the decision that the motion seeks to reopen or reconsider. 8 C.F.R. § 103.5a(b) states that whenever a person is required to act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period.

Second, the petitioner has not filed a proper motion to reopen or reconsider. His request was not accompanied by any evidence or arguments based on precedent decisions. A request for motion must meet the regulatory requirements of a motion to reopen or reconsider at the time it is filed; no provision exists for the Service to grant an extension in order to await future correspondence that may or may not include evidence or arguments.

ORDER: The motion is dismissed.

---

[1] The motion was not properly filed until the Bureau received the signed letter. *See* 8 C.F.R. § 103.5(a)(1)(iii).