



U.S. Citizenship  
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Services

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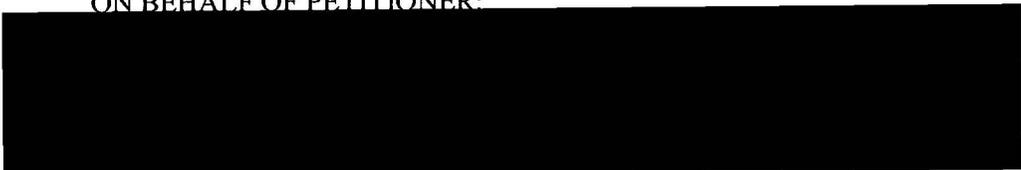
FILE: WAC 04 215 53667 Office: CALIFORNIA SERVICE CENTER Date: **MAR 03 2006**

IN RE: Petitioner:  
Beneficiary:



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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The preference visa petition was denied by the Director, California Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on motion. The motion will be dismissed.

The AAO dismissed the appeal on November 7, 2005. On December 6, 2005, Citizenship and Immigration Services (CIS) received a "Motion to Reconsider" and fee from counsel. Counsel asserted that he would send a brief and additional evidence to the AAO within 30 days.

On December 19, 2005, counsel requested, by facsimile, 45 additional days in which to submit new evidence. On December 29, 2005, the AAO denied the request, citing the regulation at 8 C.F.R. § 103.5(a)(1)(i) for the proposition that a motion must be filed within 30 days of the date of the decision it seeks to have reconsidered and the regulation at 8 C.F.R. § 103.5(a)(4) for the proposition that any motion that does not meet the applicable requirements shall be dismissed.

The regulation at 8 C.F.R. § 103.3(a)(2)(vii) allows for limited circumstances in which a petitioner can supplement an already-submitted appeal. This regulation, however, applies only to appeals, and not to motions to reopen or reconsider. There is no analogous regulation which allows a petitioner to submit new evidence in furtherance of a previously-filed motion.

According to the regulation at 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 the regulation at 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 policy.

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 CIS to grant an extension in order to await future correspondence that may or may not include evidence or arguments. As stated above, any motion that does not meet the applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion is dismissed.