



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **APR 30 2014**

Office: TEXAS SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
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:

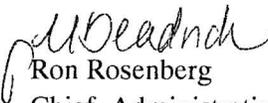
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and reaffirmed that decision on motion. The petitioner then filed a second motion, which the AAO dismissed. Subsequently, the petitioner filed a third motion, which the AAO again dismissed. The petitioner then filed a fourth motion to reopen, which the AAO also dismissed. The matter is now before the AAO on motion to reconsider. The motion will be dismissed, the previous decision of the AAO will be affirmed, and the petition will remain denied.

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 U.S. Citizenship and Immigration (USCIS) policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion to reconsider contests the correctness of the original decision based on the previous factual record, as opposed to a motion to reopen which seeks a new hearing based on new or previously unavailable evidence. See *Matter of Cerna*, 20 I&N Dec. 399, 403 (BIA 1991). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

A motion to reconsider cannot be used to raise a legal argument that could have been raised earlier in the proceedings. See *Matter of Medrano*, 20 I&N Dec. 216, 220 (BIA 1990, 1991). Rather, the “additional legal arguments” that may be raised in a motion to reconsider should flow from new law or a *de novo* legal determination reached in its decision that could not have been addressed by the party. *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). Further, 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 decision. *Id.* Instead, the moving party must specify the factual and legal issues raised on appeal that were decided in error or overlooked in the prior decision or must show how a change in law materially affects the prior decision. *Id.* at 60.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the arts. The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award or through the submission of qualifying evidence under at least three of the ten regulatory categories of evidence. The director found that the petitioner had failed to satisfy the regulatory requirements.

In the May 24, 2011 decision dismissing the petitioner’s appeal, the AAO upheld the director’s determination that the petitioner had failed to establish that she meets at least three of the regulatory categories of evidence pursuant to the regulation at 8 C.F.R. § 204.5(h)(3).

The petitioner filed her first motion to reopen on July 6, 2011. On June 29, 2012, the AAO dismissed that motion as untimely and for not meeting all of the requirements of a motion.

The petitioner filed her second motion to reopen on July 31, 2012. The petitioner’s second motion failed to offer arguments and evidence relating to the grounds underlying the AAO’s June 29, 2012

decision. Specifically, the petitioner failed to demonstrate that her motion filed on July 6, 2011 was timely and that it met the requirements of a motion to reopen. As the petitioner failed to show that the AAO erred in its dismissal of her first motion, the AAO concluded that there were no grounds to reopen the proceeding and dismissed the second motion on December 21, 2012. In addition, the AAO explained why the evidence submitted in support of the second motion failed to satisfy the antecedent regulatory requirement of three categories of evidence.

The petitioner filed her third motion to reopen on January 22, 2013. The petitioner asserted that she met the categories of evidence at 8 C.F.R. § 204.5(h)(3)(iii) and (v) and she submitted further evidence pertaining to those categories. The petitioner, however, failed to demonstrate that the AAO's December 21, 2012 decision dismissing her second motion to reopen was in error. In addition, the documentation submitted in support of the third motion did not reveal any new facts or evidence to overcome the AAO's previous decision. Accordingly, the AAO dismissed that motion on June 20, 2013.

The petitioner filed her fourth motion to reopen on July 19, 2013. The petitioner's fourth motion did not point to specific errors in the AAO's previous decision dated June 20, 2013. Furthermore, the documentation submitted in support of the motion revealed no new facts or evidence to overcome the AAO's previous decision. Accordingly, the AAO dismissed that motion on October 3, 2013.

With the current motion to reconsider, the petitioner asserts that the "hundreds of the decisions" the AAO issued in the last nine years that she has read favor wine producers over scientists, teachers, artists, and engineers. The petitioner further states that sending appeals to the AAO "waste[s] time and money" and that the AAO ignores U.S. immigration laws. Additionally, the petitioner expresses her disagreement and frustration with the AAO's May 24, 2011 and June 29, 2012 decisions.

The petitioner's instant motion is not supported by any legal argument or pertinent precedent decisions to establish that the AAO's October 3, 2013 decision was based on an incorrect application of law or USCIS policy. In addition, the motion does not establish that the AAO's latest decision was incorrect based on the evidence of record at the time of the decision.

The regulation at 8 C.F.R. § 103.5(a)(4) states that "[a] motion that does not meet applicable requirements shall be dismissed." Accordingly, the motion will be dismissed, and the previous decisions of the director and the AAO will not be disturbed.

ORDER: The motion to reconsider is dismissed, the AAO's prior decisions are affirmed, and the petition remains denied.