



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 25690671

Date: FEB. 13, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks classification as an individual of extraordinary ability. *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 Nebraska Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the record did not establish that the Petitioner met the initial evidence requirements of this classification by demonstrating his receipt of a major, internationally recognized award or meeting at least three of the evidentiary criteria listed under 8 C.F.R. § 204.5(h)(3). We dismissed the Petitioner's appeal from that decision, as well as five subsequent motions. The matter is now before us on a six motion, which is a motion to reopen. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motion.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not satisfy the applicable requirements must be dismissed. 8 C.F.R. § 103.5(a)(4).

The procedural history relating to this filing is lengthy and it is not necessary for us to restate it here. We incorporate the history by reference from our previous discussion on the matter. The issues here are whether the Petitioner has submitted new facts, supported by documentary evidence, to warrant reopening our decision on his fifth motion. General support that a motion must first overcome the most recent decision lies within the regulation at 8 C.F.R. § 103.5(a)(1)–(3) where it repeatedly discusses the underlying or latest decision, it limits the time one has to file a motion after the most recent decision, and it references jurisdiction resting with the entity who made the latest decision. This demonstrates that any motion must first address and overcome the most recent adverse decision before the filing party's arguments may move on to any issue that arose in a previous petition, appeal, or motion filing.

In the present motion, the Petitioner addresses issues spanning topics from the Director’s original denial to our decision on his fourth motion. But he does not address the content of our decision in response to his fifth motion, which he must mandatorily do first before we may move to consider any other eligibility factors. Our decision on his fifth motion boils down to a similar issue here. In that decision, he failed to first address the issues within our decision that preceded that motion. For this reason, we determine the Petitioner has not overcome our reasoning within his fifth motion dismissal through new evidence in this motion to reopen.

We also address the numerous motion filings based on the original petition. Multiple motion filings serve to thwart the strong public interest in bringing issues to a close, particularly in immigration proceedings where every delay works to the filing party’s advantage who wishes to remain in the United States. *Cf. Hernandez-Ortiz v. Garland*, 32 F.4th 794, 800–01 (9th Cir. 2022) (citing *INS v. Doherty*, 502 U.S. 314, 323 (1992) and *INS v. Abudu*, 485 U.S. 94, 107–08 (1988)). USCIS has the latitude and discretion to be restrictive in granting motions, as granting them too freely can create endless delays to a final resolution, not to mention needlessly wasting government resources attending to repeated requests. *Cf. Abudu*, 485 U.S. at 108. This demonstrates why a filing party bears a “heavy burden” when they seek a motion, and that burden incrementally increases with each subsequent motion filing. *Id.*

Generally, when a previous motion was dismissed because the filing party failed to meet the regulatory requirements of a motion, a subsequent motion filing must first overcome the shortcomings within the decision that immediately preceded the current filing. And after a filing party has filed a significant number of motions, it becomes increasingly difficult to overcome each sequential preceding decision—in seriatim fashion—to eventually return to the eligibility claims they originally asserted. In some instances, simply refileing a new petition could be a more expeditious and less burdensome method to possibly receive a favorable decision on a petition. While we do not suggest that this Petitioner should abandon his efforts of filing future motions with this office and instead file a new petition, it is a factor he may wish to consider.

The Petitioner has not demonstrated that we should reopen the proceedings.

**ORDER:** The motion to reopen is dismissed.