



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

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

MATTER OF A-J-C-

DATE: NOV. 29, 2017

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-526, IMMIGRANT PETITION FOR ALIEN ENTREPRENEUR

The Petitioner seeks classification as an immigrant investor based on an investment in a new commercial enterprise (NCE). *See* Immigration and Nationality Act section 203(b)(5), 8 U.S.C. § 1153(b)(5). This fifth preference employment-based classification (EB-5) makes immigrant visas available to foreign nationals who invest the requisite amount of qualifying capital in an NCE that will benefit the United States economy and create at least 10 full-time positions for qualifying employees.

The Chief of the Immigrant Investor Program Office denied the petition. We summarily dismissed the Petitioner's appeal because the Petitioner did not specifically identify an erroneous conclusion of law or statement of fact for the appeal. We then denied two subsequent combined motions to reopen and reconsider our decision. The matter is now before us on a third combined motion to reopen and motion to reconsider. Upon review, we will deny the motions.

U.S. Citizenship and Immigration Services (USCIS) must deny a motion that does not satisfy applicable requirements. 8 C.F.R. § 103.5(a)(4). A motion to reopen must state new facts to be provided in the reopened proceeding. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent decisions to establish that the decision was based on an incorrect application of law or USCIS policy. 8 C.F.R. § 103.5(a)(3).

The Petitioner's third motion submission contains the following documents: a Form I-290B, Notice of Appeal or Motion; a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative; a copy of the most recent motion denial notice dated August 8, 2017; and a cover letter stating that the motion submission contains the aforementioned documents and the required filing fee. Those documents do not contain a sufficient statement of a new fact to be provided in the reopened proceeding or a sufficient statement of a reason for reconsideration supported by any pertinent decisions to establish that the decision was based on an incorrect application of law or USCIS policy.

The cover letter states that the Petitioner "will be submitting additional evidence and documents within 30 days" of the motion filing date. Unlike an appeal, *see* 8 C.F.R. § 103.3(a)(2)(i), there is no provision entitling a movant to submit a brief or additional evidence after the motion filing date. *See generally* 8 C.F.R. § 103.5; *see also* 8 C.F.R. § 103.5(a)(5)(ii) (specifically requiring a USCIS

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officer, who reopens or reconsiders a proceeding on the officer's motion rather than on a motion filed by a petitioner, to provide an affected party 30 days to submit a brief). Additionally, even if there were a provision permitting a movant to submit documents after the motion filing date, the record does not contain a sufficient statement or supporting evidence received at our office within 30 days of the motion filing date. Therefore, we must deny the motion because it does not satisfy applicable requirements for either a motion to reopen or a motion to reconsider. 8 C.F.R. § 103.5(a)(2)-(4).

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of A-J-C-*, ID# 1035773 (AAO Nov. 29, 2017)