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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: **AUG 28 2013** Office: VERMONT SERVICE CENTER

IN RE: Petitioner:  
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

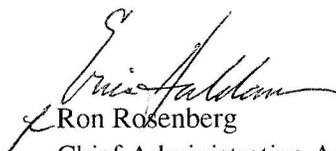
SELF-REPRESENTED

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, Vermont Service Center, denied the petition for a nonimmigrant visa. The petitioner has subsequently filed a total of three appeals and six motions with the Administrative Appeals Office (AAO). Most recently, the AAO dismissed the petitioner's motion to reopen and reconsider in a decision dated March 29, 2013. The matter is once again before the AAO on a motion to reconsider.

The petitioner seeks to extend the beneficiary's employment as an L-1A nonimmigrant intracompany transferee pursuant to § 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(L). The petitioner, a corporation organized under the laws of the State of New Jersey, claims to be engaged in the wholesale of general merchandise and states that it is a subsidiary of [REDACTED]. The beneficiary was initially granted a one-year period of stay in the United States in L-1A status in order to open a new office, and the petitioner seeks to extend the beneficiary's stay.

The director denied the petition on February 24, 2004, concluding that the petitioner failed to establish that the beneficiary would be employed in a primarily managerial or executive capacity under the extended petition. The AAO summarily dismissed the petitioner's appeal on February 1, 2006, and subsequently granted a motion to reopen in order to consider a timely filed appellate brief that had not been incorporated into the record prior to the AAO's initial decision. The AAO issued a 14-page decision affirming the denial of the petition and dismissal of the appeal on May 17, 2007. The petitioner subsequently filed an appeal on June 14, 2007. The AAO rejected the petitioner's second appeal as improperly filed on December 4, 2007, noting that the AAO does not exercise appellate jurisdiction over AAO decisions. In its decision, the AAO reviewed the petitioner's appeal and found that it did not meet the requirements for a motion to reopen or reconsider. A subsequent motion, filed on January 4, 2008, was reviewed by the AAO and dismissed in a decision dated July 7, 2008. The AAO rejected the petitioner's subsequent appeal on November 25, 2008, again noting that the AAO does not exercise appellate jurisdiction over AAO decisions. The AAO dismissed the petitioner's subsequent motions to reopen and reconsider pursuant to the regulation at 8 C.F.R. § 103.5(a)(4), based on the petitioner's failure to satisfy applicable filing requirements.

The regulation at 8 C.F.R. § 103.5(a)(1)(iii)(C) requires that motions be "[a]ccompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding." The petitioner's motion does not contain the statement required by 8 C.F.R. § 103.5(a)(1)(iii)(C). The regulation at 8 C.F.R. § 103.5(a)(4) states that a motion which does not meet applicable requirements must be dismissed. Therefore, because the instant motion does not meet the applicable filing requirements listed in 8 C.F.R. § 103.5(a)(1)(iii)(C), it must be dismissed for this reason.

Further, 8 C.F.R. § 103.5(a)(3) states, in pertinent part:

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 Service policy. . . .

This regulation is supplemented by the instructions on the Form I-290B, Notice of Appeal or Motion, by operation of the rule at 8 C.F.R. § 103.2(a)(1) that all submissions must comply with the instructions that appear on any form prescribed for those submissions.<sup>1</sup> With regard to motions for reconsideration, Part 3 of the Form I-290B submitted by the petitioner states:

**Motion to Reconsider:** The motion must be supported by citations to appropriate statutes, regulations, or precedent decisions.

Therefore, to merit reconsideration of the AAO's most recent decision, the petitioner must both: (1) state the reasons why the petitioner believes the most recent decision was based on an incorrect application of law or policy; and (2) specifically cite laws, regulations, precedent decisions, and/or binding policies that the petitioner believes that the AAO misapplied in its most recent decision. The AAO emphasizes that the requirements for a motion to reconsider are specific. 8 C.F.R. § 103.5(a)(3) requires a motion to reconsider to state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the prior decision was based on an incorrect application of law or Service policy. Such explanation and supporting evidence must be submitted on or with Form I-290B. *See* 8 C.F.R. §§ 103.5(a)(2) and (3).

The petitioner states on the Form I-290B that the basis for appeal is "being aggrieved by the decision to deny BOTH in fact & law." The petitioner further states that a detailed brief will be submitted in 90 days. As of August 21, 2013, no further correspondence has been received from the petitioner.

The petitioner's motion does not meet applicable requirements. The petitioner stated that additional evidence would be submitted in 90 days. Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to the AAO in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. *See* 8 C.F.R. §§ 103.5(a)(2) and (3). Accordingly, the motion must be dismissed for failing to meet applicable requirements.

The petitioner's claims of being "aggrieved" by the decision is vague and fails to explain how the AAO misapplied the law or policy. The AAO notes that the petitioner has made similar claims in prior motions and the AAO has addressed these claims in prior decisions. The petitioner cannot generally request reconsideration of every decision made by the director and the AAO to date. The AAO emphasizes that the purpose of a motion is different from the purpose of an appeal. While the AAO conducts a comprehensive, *de novo* review of the entire record on appeal, a review in the case of a motion to reconsider is strictly limited to an examination of any purported misapplication of law of USCIS policy *in the most recent decision*. The AAO previously conducted a *de novo* review of

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<sup>1</sup> The regulation at 8 C.F.R. § 103.2(a)(1) states in pertinent part :

[E]very application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions . . . being hereby incorporated into the particular section of the regulations requiring its submission.

the entire record of proceeding when it reopened the matter to consider the petitioner's appellate brief in its May 17, 2007 decision. There is no regulatory or statutory provision that allows a petitioner more than one appellate decision per every petition filed. In the present matter, an appellate decision was issued and the deficiencies were expressly stated. The petitioner persists in filing motions and improperly filed appeals reiterating arguments that have been addressed and found to be insufficient in prior AAO decisions.

For the foregoing reasons, the instant motion does not meet the requirements of a motion to reconsider. The motion fails to establish that the AAO's decision dated March 29, 2013 dismissing the previous motion was in error, as required by 8 C.F.R. § 103.5(a)(3).

Motions for the reopening or reconsideration of immigration proceedings are disfavored for the same reasons as petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. See *INS v. Doherty*, 502 U.S. 314, 323 (1992) (citing *INS v. Abudu*, 485 U.S. 94 (1988)). A party seeking to reopen a proceeding bears a "heavy burden." *INS v. Abudu*, 485 U.S. at 110. With the current motion, the movant has not met that burden. Accordingly, the motion will be dismissed, the proceedings will not be reconsidered, and the previous decisions of the director and the AAO will not be disturbed.

**ORDER:** The motion is dismissed.