



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

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

In Re: 29411913

Date: DEC. 29, 2023

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Multinational Managers or Executives)

The Petitioner, a furniture seller, seeks to permanently employ the Beneficiary as its president under the first preference immigrant classification for multinational executives or managers. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(C), 8 U.S.C. § 1153(b)(1)(C). This classification allows a U.S. employer to permanently transfer a qualified foreign employee to the United States to work in a managerial or executive capacity.

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not establish that: (1) it has been doing business for at least one year prior to the petition's filing date; (2) it has been able to pay the Beneficiary's proffered wage since the petition's filing date; (3) it will employ the Beneficiary in the United States in a managerial or executive capacity; and (4) the Beneficiary has been employed abroad in a managerial or executive capacity. The Director then granted the Petitioner's combined motion to reopen and reconsider, but reaffirmed the denial of the petition on the same grounds. We dismissed the Petitioner's appeal from that decision, and four subsequent motions. The matter is now before us on motion to reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner states that copies of "certain precedent decisions" are attached in support of the motion. The Petitioner does not identify these precedent decisions, and the motion before us does not include copies of any precedent decisions.

The scope of a motion is limited to "the prior decision" and "the latest decision in the proceeding." 8 C.F.R. § 103.5(a)(1)(i), (ii). The Petitioner's contentions in its current motion merely reargue facts and issues we have already considered in our previous decisions.

The Board of Immigration Appeals has held that “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 Board decision.” *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). In this instance, the brief submitted on the Petitioner’s fifth motion is identical to the brief filed with the fourth motion, except for an updated chronology of the proceeding that takes into account the dismissal of that fourth motion. We already considered the arguments in that brief in our previous decision. The Petitioner does not explain why the same brief should now produce a different outcome.

The Petitioner also submits copies of its 2022 tax return and related documents. We do not consider new evidence on motion to reconsider. As noted above, a motion to reconsider must establish that the prior decision was incorrect based on the evidence that was in the record at the time of that decision. 8 C.F.R. § 103.5(a)(3). Furthermore, the Petitioner does not explain why documentation from 2022 shows that the petition was approvable when the Petitioner filed it in 2017. The Petitioner must establish eligibility at the time of filing the petition. *See* 8 C.F.R. § 103.2(b)(1). Tax documents can attest to the Petitioner’s ability to pay the Beneficiary’s proffered wage, but the Petitioner must also establish that ability at the time of filing. *See* 8 C.F.R. § 204.5(g)(2).

On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, we will dismiss the motion. 8 C.F.R. § 103.5(a)(4).

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