



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

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

In Re: 22717725

Date: OCT. 6, 2022

Motion on Administrative Appeals Office Decision

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

The Petitioner, an artist representative and production company, seeks to classify the Beneficiary, an actress, as an individual of extraordinary ability. This O-1 classification makes nonimmigrant visas available to foreign nationals whose achievements in this industry have been recognized in the field through extensive documentation.

The Director of the Vermont Service Center denied the petition, and we dismissed the Petitioner's appeal and two subsequent motions. The matter is now before us on a third motion to reconsider.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* section 291 of the Act, 8 U.S.C. § 1361. Upon review, we will dismiss the motion.

The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits U.S. Citizenship and Immigration Services' authority to reconsider to instances where an applicant has shown "proper cause" for that action. Thus, to merit reconsideration, a petitioner must not only meet the formal filing requirements at 8 C.F.R. § 103.5(a)(1)(iii) (such as submission of a properly completed and signed Form I-290B, Notice of Appeal or Motion, with the correct fee), but also show proper cause for granting the motion. Specifically, a motion to reconsider must establish that our 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). In these proceedings, it is the petitioner's burden to establish by a preponderance of the evidence eligibility for the requested benefit. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010).

In our most recent decision, the dismissal of the Petitioner's second motion, we determined that the Petitioner provided the same arguments it made in its prior motion brief and restated and described the previously submitted evidence. Moreover, the Petitioner did not argue or point to how we incorrectly applied law or policy in our prior decision, as required for a motion to reconsider. Disagreeing with our conclusions without showing that we erred as a matter of law or pointing to policy that contradicts our analysis of the evidence is not a ground to reconsider our decision. *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (" [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. The moving party must specify the factual and legal issues raised on appeal that were decided in error or overlooked in our initial decision . . . "). In addition,

we concluded that our decision analyzed and explained why the evidence and arguments addressed in the prior motion did not meet the regulatory requirements.

The review of any motion is narrowly limited to the basis for the prior adverse decision. Accordingly, we examine any new arguments to the extent that they pertain to our dismissing its second motion. Thus, the issue before us is whether we erred in determining that the Petitioner did not establish that we incorrectly applied law or policy in dismissing the prior motion to reconsider.

In the current motion, the Petitioner requests that we review previously submitted evidence and makes arguments relating to the Beneficiary's eligibility for five of the six criteria at 8 C.F.R. § 214.2(o)(3)(v)(B)(1)-(6). However, the Petitioner does not explain or demonstrate how we erred in dismissing his second motion. Specifically, the Petitioner does not establish that we incorrectly determined that it provided the same arguments from its prior motion brief and restated and described the previously submitted evidence without pointing to how we erroneously applied law or policy. Accordingly, the Petitioner did not demonstrate that his current motion meets the requirements for a motion to reconsider under 8 C.F.R. § 103.5(a)(3). Therefore, we will dismiss his motion to reconsider and need not address his other motion arguments.

III. CONCLUSION

The Petitioner has not shown that we incorrectly applied law or policy in our previous decision based on the record before us.

ORDER: The motion to reconsider is dismissed.