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

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

Date: MAY 0 8 2015 Office: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

APPLICATION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A).

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, Texas Service Center, denied the employment-based immigrant visa petition on January 26, 2012. The petitioner filed a motion to reconsider, which the director dismissed on December 4, 2012. The petitioner filed a motion to reopen, which the director dismissed on September 20, 2013. On July 25, 2014, we dismissed the petitioner's appeal, finding that he did not establish his eligibility for the exclusive classification sought. On December 15, 2014, we dismissed the petitioner's motion to reconsider. The matter is now before us on a second motion to reconsider. We will dismiss the motion.

I. Motion to Reopen and Reconsider

In Part 3 of his Notice of Appeal or Motion, Form I-290B, the petitioner indicates that he is filing a motion to reconsider. In support of his motion, the petitioner has submitted documents that were not previously in the record.

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that our original decision was based on an incorrect application of law or USCIS policy. 8 C.F.R. § 103.5(a)(3). A motion to reconsider is based on the existing record and the petitioner may not introduce new facts or new evidence relative to his or her arguments. In addition, 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. *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). A motion to reconsider contests the correctness of the original decision based on the previous factual record, as opposed to a motion to reopen which seeks a new hearing based on new or previously unavailable evidence. *Compare* 8 C.F.R. § 103.5(a)(3) and 8 C.F.R. § 103.5(a)(2). Accordingly, a motion to reconsider is not the proper filing to request consideration of new evidence. The legal authorities on which the petitioner relies relate to the standard of proof. While the petitioner is correct that the appropriate standard is preponderance of the evidence, that standard does not relieve the petitioner from satisfying the basic evidentiary requirements set by regulation. *Matter of Chawathe*, 25 I. & N. Dec. 369, 375, n.7 (AAO 2010). Where the regulations require specific evidence, the petitioner is required to submit that evidence. *Id.* The general immigration policies the petitioner references relate to the benefits of allowing bright individuals to immigrate and do not relate specifically to the classification the petitioner seeks.

Even if we considered the petitioner's motion, which includes the submission of new evidence, as a motion to reopen in addition to a motion to reconsider, the petitioner's new evidence either does not relate to the petitioner's eligibility as of the date of filing or is not persuasive for the reasons discussed below. A party seeking to reopen a proceeding bears a heavy burden and "must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence." 8 C.F.R. § 103.5(a)(2). The United States Citizenship and Immigration Services (USCIS) "has some latitude in deciding when to reopen a case. [USCIS] should have the right to be restrictive. Granting such motions too freely will permit endless delay of deportation by

aliens creative and fertile enough to continuously produce new and material facts sufficient to establish a *prima facie* case." *INS v. Abudu*, 485 U.S. 94, 108 (1988). The result also needlessly wastes the time and efforts of the triers of fact who must attend to the filing requests. *Id.*

On motion, the petitioner has not shown that we should grant a motion to reconsider or, in the alternative, a motion to reopen. The petitioner has asked us to "review [his] entire record for the approval of [the] I-140 [petition]." The petitioner, however, has not shown through citation to legal authority or policy that we erred in our December 15, 2014 decision; nor has he submitted additional evidence that establishes his eligibility for the exclusive classification sought. On motion, as relating to the prizes and awards criterion, 8 C.F.R. § 204.5(h)(3)(i), the petitioner has provided a list of his accomplishments. Between our July 25, 2014 decision and our December 15, 2014 decision, we discussed six of the eight listed accomplishments and found that they do not constitute internationally or nationally recognized prizes or award for excellence in the field. On motion, the petitioner has not asserted or shown that we erred in our previous findings as relating to these accomplishments. The remaining two accomplishments relate to the petitioner's selection as an testimonial survey winner and the Both events occurred after the petitioner filed the petition in December 2011. They therefore do not establish the petitioner's eligibility for the exclusive classification or that we erred in our previous decisions. It is well established that the petitioner must demonstrate eligibility for the visa petition at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). In other words, the petitioner cannot secure a priority date based on the anticipation of future citations at a level consistent with contributions of major significance. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Reg'l Comm'r 1977); *Matter of Izummi*, 22 I&N Dec. 169, 175-76 (Assoc. Comm'r 1998) (adopting *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981) for the proposition that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition.")

Moreover, the petitioner has not submitted evidence showing that an testimonial survey win is recognized on an international or national level or that it is a prize or award in the field(s) in which the petitioner asserts he has extraordinary ability. Specifically, the evidence reflects only that the petitioner submitted a testimonial that he generated savings using public financial management tools about which he learned at an conference and that plans to use the testimonial for its own marketing purposes. Furthermore, the evidence the petitioner has submitted relating to " " consists of a 2015 email that makes no reference to the petitioner's receipt of any prize or award. Rather, the body of the email appears to be a summary of an article translated through Google Translate, translate.google.com. Such a translation does not comply with 8 C.F.R § 102.3(b)(3), which requires complete certified translations. Accordingly, as relating to this criterion, the petitioner has not shown that a motion to reopen or reconsider is warranted. *See* 8 C.F.R. § 103.5(a)(2), (3).

On motion, as relating to the membership in associations criterion, 8 C.F.R. § 204.5(h)(3)(ii), the petitioner has provided a list of seven organizations, asserting that he is a member of each organization. Between our July 25, 2014 decision and our December 15, 2014 decision, we

discussed five of the seven listed organizations and found that those memberships do not constitute associations that require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. The petitioner has not cited any legal authority or policy demonstrating that we erred in our previous findings as relating to these associations. The remaining two listed associations are the and the . The petitioner has not submitted evidence showing that he is an member. On motion, he has submitted a Certificate of Attendance, verifying his attendance to a conference. The certificate does not demonstrate the petitioner's membership in the organization. In addition, the petitioner has not submitted evidence relating to membership requirements, or evidence showing that the organization requires outstanding achievements of its members.

Moreover, although on motion the petitioner has submitted evidence demonstrating his membership in the and , the petitioner has not submitted any evidence showing that any of these associations requires outstanding achievements of its members, or evidence that an applicant's qualifications for membership are judged by recognized national or international experts, as required by the plain language of the criterion. Accordingly, as relating to this criterion, the petitioner has not shown that a motion to reopen or reconsider is warranted. *See* 8 C.F.R. § 103.5(a)(2), (3).

On motion, as relating to the published material criterion, 8 C.F.R. § 204.5(h)(3)(iii), the petitioner has submitted an online printout relating to stating that ' is the Brazilian newspaper with the largest printing and circulation among national dailies of general interest." The printout also includes the publication's circulation information for " [sic] / 2012." The self-promotional assertions comparing the publication with others have minimal evidentiary value. *See Braga v. Poulos*, No. CV 06-5105 SJO 10, 2007 WL 9229758, at *1, 6-7 (C.D. Cal. July 6, 2007), *aff'd*, 317 F. App'x 680 (9th Cir. 2009) (concluding that we did not have to rely on the promotional assertions on the cover of a magazine as to the magazine's status as major media). Although the online printout indicates that in 2012, the publication's paid circulation numbers were 321,535 copies on Sundays and 297,927 copies on weekdays, the petitioner has not shown that the edition constitutes major media in that it enjoys a national distribution.

Regardless, as discussed in our December 15, 2014 decision, denying the petitioner's first motion, we concluded that the petitioner did not show that has published material about him, as the petitioner did not submit a copy of the 1999 published material, along with a complete certified translation that meets the requirements at 8 C.F.R § 103.2(b)(3). Rather, the petitioner provided a website address for the published material. As noted in our previous decision, we nonetheless accessed the website and found that the article is about a new accounting examination and quotes the petitioner as a member of the discussing the purpose of the examination. We concluded that the published material is not about the petitioner. Similarly, we concluded in our previous decision that the material is not about the petitioner, because it is a question and answer piece about the impact of the change in Brazilian currency that mentions the petitioner's name only in the introduction and a photograph caption identifying him as one "who failed to submit the form via the Internet." On motion, the

petitioner has not submitted any additional evidence establishing that he meets this criterion or cited a legal authority or USCIS policy demonstrating that we erred in our previous decisions as relating to this criterion. Accordingly, as relating to this criterion, the petitioner has not shown that a motion to reopen or reconsider is warranted. *See* 8 C.F.R. § 103.5(a)(2), (3).

On motion, as relating to the original contributions of major significance criterion, 8 C.F.R. § 204.5(h)(3)(v), the petitioner has submitted copies of Google search results and a November 19, 1999 letter from President of As discussed in our December 15, 2014 decision, denying the petitioner's first motion, Google search results do not establish an individual's impact in the field. As noted in our decision, the petitioner has not demonstrated the relevance of the Google search results because a Google search includes results that mention the petitioner's name without providing information relating to the nature of the reference. We concluded that Google search results, without evidence that the search results relate to the petitioner's original contributions of major significance in the field, are insufficient to show the petitioner meets this criterion. On motion, the petitioner has not shown through citation of any legal authority or policy that we erred in our findings. Moreover, the purpose of the 1999 letter from Ms. was to coordinate with the petitioner on the publication of his presentation at an conference. The letter does not confirm the actual publication of the petitioner's presentation. More importantly, the letter does not provide information relating to the petitioner or his presentation's impact in the field, or demonstrate that the impact is at a level consistent with contributions of major significance in the field. Accordingly, as relating to this criterion, the petitioner has not shown that a motion to reopen or reconsider is warranted. *See* 8 C.F.R. § 103.5(a)(2), (3).

On motion, as relating to the leading and critical role criterion, 8 C.F.R. § 204.5(h)(3)(viii), the petitioner has submitted a list of organizations or establishments, in which he asserts he has performed either a leading or critical role. The petitioner, however, does not state on motion that we erred in our previous decisions as relating to this criterion or provide a legal authority or policy that demonstrates a legal error in our previous decision. In support of this motion, the petitioner submits a November 23, 1999 letter from National President, a September 15, 1993 letter from Vice President of Operations at the ; the petitioner's resume; a document entitled " "; a January 2015 email to and from a ; a attendee credential; and a completion certificate.

First, we have considered two pieces of the evidence in our previous decisions. Specifically, in our July 25, 2014 decision, dismissing the petitioner's appeal, we discussed the 1999 letter from Mr. finding that it did not establish the petitioner meets the original contributions of major significance criterion under 8 C.F.R. § 204.5(h)(3)(v). The letter also does not establish that the petitioner has met the leading and critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). Specifically, the letter establishes that the petitioner presented at the and received positive responses for his presentation. The letter, however, does not

state what role, if any, the petitioner performed for the Board of Directors of the the organizer of the event, or for any organizations or establishments. The letter is therefore not sufficient to show that the petitioner meets this criterion. In addition, in our December 15, 2014 decision, dismissing the petitioner's first motion, we discussed the 1993 letter from Mr. finding that it did not establish the petitioner meets the leading and critical role criterion. On motion, the petitioner has not shown through any legal authority or policy that we erred in our findings as relating these two pieces of evidence.

Second, although on motion, the petitioner has submitted additional evidence, he has not shown that the additional evidence establishes that he meets the leading and critical role criterion. The additional evidence shows the petitioner's participation in a number of events. The petitioner, however, has not shown that mere participation constitutes performing either a leading or critical role for any organizations or establishments.

Third, evidence that postdates the filing of the petition in December 2011, specifically a January 2015 email and a 2014 completion certificate, does not establish the petitioner's eligibility. As noted, the petitioner must demonstrate eligibility for the visa petition at the time of filing, and may not rely on events that postdate his filing to establish his eligibility. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49; *Matter of Wing's Tea House*, 16 I&N Dec. at 160; *Matter of Izummi*, 22 I&N Dec. at 175-76.

Finally, the petitioner's resume constitutes his unsubstantiated assertions, which are not evidence establishing his eligibility. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Accordingly, as relating to this criterion, the petitioner has not shown that a motion to reopen or reconsider is warranted. *See* 8 C.F.R. § 103.5(a)(2), (3).

II. Conclusion

The petitioner indicated that he was filing a motion to reconsider. The petitioner has not shown that the motion to reconsider should be granted, because he has not stated any valid reason for reconsideration, nor has he sufficiently supported any valid reason for reconsideration with pertinent legal precedent or other legal authority establishing that our December 15, 2014 decision was based on an incorrect application of law or USCIS policy. *See* 8 C.F.R. § 103.5(a)(3). Accordingly, the instant motion to reconsider will be dismissed. Even if we considered the filing as a motion to reopen, the petitioner has not shown that the new evidence demonstrates his eligibility for the classification at the time of filing.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. Accordingly, the motion will be dismissed.

ORDER: The motion is dismissed, our December 15, 2014 decision is affirmed, and the petition remains denied.