



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

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

MATTER OF R-S-

DATE: APR. 11, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a sailing competitor and coach, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner had a major, internationally recognized prize or award or satisfied at least three of the ten evidentiary criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner appealed the denial, which we dismissed. She subsequently filed two motions, both of which we denied.

On the instant motion to reconsider, the Petitioner asserts that the file should be remanded back to the Director to allow an opportunity for her to request additional evidence in support of the membership criterion at 8 C.F.R. § 204.5(h)(3)(ii).

Upon review, we will deny the motion.

I. LAW

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). It must also be supported by a pertinent precedent or adopted decision, statutory or regulatory provision, or statement of U.S. Citizenship and Immigration Services (USCIS) or Department of Homeland Security policy.

II. ANALYSIS

The Director's decision found that the Petitioner met only the membership criterion at 8 C.F.R. § 204.5(h)(3)(ii). In dismissing the appeal, we disagreed with the Director's finding regarding the membership criterion, but found that the Petitioner does meet the awards criterion under 8 C.F.R. § 204.5(h)(3)(i) and the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner then asserted on

motion that she meets the membership, published material, and original contributions criteria, and that she is an individual of extraordinary ability based upon the totality of the evidence. We denied that motion, finding that the Petitioner met none of the additional criteria and that she had not established that she has the requisite sustained national or international acclaim as either a sailing competitor or a sailing coach. In her second motion, the Petitioner focused on the membership criterion, which we again denied.

The Petitioner's instant filing does not meet the requirements for a motion to reconsider. As noted above, a motion to reconsider must be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy, and that the decision was incorrect based on the evidence in the record at the time of the decision. *See* 8 C.F.R. § 103.5(a)(3). In this motion, the Petitioner does not contend that our decision was incorrect through misapplication of law or policy. Rather, she asserts that she has not been provided with the opportunity to respond to a request for additional evidence from the Director regarding the membership criterion and that we should therefore remand her petition. She cites to no precedent case law or relevant statute or regulation to support her motion.

III. CONCLUSION

The Petitioner has not shown that we incorrectly applied any law or policy, or otherwise erred in our previous decision. *See* 8 C.F.R. § 103.5(a)(3).

ORDER: The motion to reconsider is denied.

Cite as *Matter of Matter of R-S-*, ID# 1242520 (AAO Apr. 11, 2018)