



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

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

In Re: 6695682

Date: APR. 6, 2020

Motion on Administrative Appeals Office Decision

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

The Petitioner, a karate competitor in the field of martial arts, seeks classification as an alien 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 that the Petitioner has received a major, internationally recognized award or met the requirements of at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner appealed the decision, asserting that his awards received at national and international karate competitions qualify as one-time achievements, and alternatively that he meets seven of the ten evidentiary criteria. In our appeal decision, we found that the evidence did not establish that he met any of the criteria, or that any of his awards rose to the level of a major, internationally recognized award.

The Petitioner now submits new evidence with his combined motion to reopen and reconsider, but has not included a statement indicating which criteria he intends this evidence to support, or that supports his 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 both motions.

I. LAW

A motion to reconsider is based on an *incorrect application of law or policy*, and a motion to reopen is based on documentary evidence of *new facts*. The requirements of a motion to reconsider are located at 8 C.F.R. § 103.5(a)(3), and the requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. ANALYSIS

The Petitioner has competed in national and international karate tournaments since a young age, and intends to continue to compete in the United States.

A. Motion to Reconsider

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). Although the Petitioner indicated in Part 2 of Form I-290B that he is filing a motion to reopen and a motion to reconsider, he has not included a statement identifying how or where our previous decision incorrectly applied law or policy, or that it was incorrect based upon the evidence in the record at the time it was issued. The Petitioner has therefore not met the requirements of a motion to reconsider, and his motion will be dismissed.

B. Motion to Reopen

As noted above, the Petitioner has submitted evidence with his motion, much of which has not been previously submitted. Although he has not submitted a statement indicating which criteria this evidence is intended to support, we will nevertheless consider this evidence as it pertains to the relevant criteria.

The Petitioner has submitted partial copies of books he has authored, together with English translations. This evidence verifies his authorship of these books, which we acknowledged in our previous decision, albeit with the titles translated somewhat differently than in the initial evidence. Review of this evidence confirms our previous finding that these books cannot be considered to be qualifying scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi). In general, a scholarly article should be written for learned persons in that field. Learned persons include all persons having profound knowledge of a field.¹ Here, the title pages and content of both books indicate that they include basic information about karate techniques and rules, and are intended for students. Therefore this evidence does not overcome our previous finding that the Petitioner has not authored scholarly articles in the field of martial arts.

Evidence is also submitted regarding awards the Petitioner has received in karate competitions, but this evidence was already in the record and is thus not documentary evidence of new facts as required under the motion to reopen regulations at 8 C.F.R. § 103.5(a)(2). While the Petitioner includes what appear to be new statements regarding these competitions and awards, these are descriptive of the events and evidence submitted and do not provide new evidence that the awards he received are nationally or internationally recognized.

In addition, the Petitioner includes a reference letter with his motion, written by his coach and father. The letter provides a summary of his father's accomplishments in the field of martial arts, as well as a

¹ See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted With Certain I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14*. (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

brief description of the Petitioner's training regimen, and is accompanied by extensive evidence about his father and his career. His father concludes that the Petitioner is a "high level" and "unique" athlete due to his training and skills, and "is famous in the Republic of [] and in the international sphere of karate." However, this letter does not specifically address the requirements of any of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Further, to the extent it supports the Petitioner's claim to sustained national or international acclaim, it is not sufficiently corroborated by documentary evidence in the record, and the Petitioner has not established that he meets the initial evidentiary requirements needed to reach the final merits determination where such a claim would be analyzed.

Accordingly, upon review of the new evidence submitted with the Petitioner's motion to reopen, we find that it does not show that he meets the requirements of at least three of the evidentiary criteria, and thus does not demonstrate his eligibility as an alien of extraordinary ability.

III. CONCLUSION

For the reasons discussed above, the Petitioner has not established that our previous 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. Further, the new documentary evidence submitted does not overcome the findings in our previous decision and establish the Petitioner's eligibility for the requested benefit.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.