U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 5268827

Date: FEB. 12, 2020

Motion on Administrative Appeals Office Decision

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

The Petitioner, a former professor at [redacted] College, seeks classification as an individual of extraordinary ability in education.[1] *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 Texas Service Center denied the petition in 2012 and two subsequent motions in 2012 and 2013, respectively, concluding that the Petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which require documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x). In 2014, we upheld the Director's 2013 decision, and subsequently reaffirmed our findings in nine motion decisions between 2014 and 2019.[2]

The matter is now before us on motion for the tenth time. The Petitioner has filed combined motions to reconsider and reopen, asserting that we should approve his petition because "the favorable factors in the case outweighed the unfavorable factors." He further alleges that he has shown he satisfies at least three of the ten regulatory criteria, because in addition to having previously established the judging and scholarly articles criteria under 8 C.F.R. § 204.5(h)(3)(iv) and (vi), he claims that he has demonstrated his "receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor," under 8 C.F.R. § 204.5(h)(3)(i).

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 deny the combined motions to reconsider and reopen.

[1] On page 3 of his petition, the Petitioner indicated that upon the approval of the petition, he would work as a "professor of law and economics" in the United States.

[2] Our most recent decision in this matter is *Matter of A-O-R-D-L-*, ID# 1574437 (AAO Feb. 4, 2019).

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

A. Motion to Reconsider

On motion, the Petitioner asserts that we erred in our last decision because we did not follow the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i), relating to nationally or internationally recognized prizes or awards for excellence in the field of endeavor. Specifically, he argues that "all the [five] international awards" meet the regulatory criterion. Moreover, he claims that we "entirely forgot in the decision about these five awards."

The Petitioner has not demonstrated that we erred in our previous decision. The record reflects that we addressed all of his claimed awards in our prior decision denying his motions. Specifically, we informed the Petitioner in numerous decisions, including our most recent one, that he did not submit credible and sufficient evidence confirming that his 2001 "Diploma of Merit," issued by a regional authority, constituted a nationally or internationally recognized prize or award for excellence in the field of education.

Furthermore, we explained that the Petitioner did not present evidence demonstrating that his "Innovare Award" enjoyed recognition on a national or international level in the field of education. In addition, the Petitioner did not address our finding that even though he claimed to have received the "Innovare Award" in 2005, the record did not show that is existed prior to 2010.

Moreover, we indicated that he did not initially assert on appeal that his other awards and prizes, which he now claimed to be nationally recognized, were qualifying under the regulation at 8 C.F.R. § 204.5(h)(3)(i). Further, as we explained in our 2014 decision, the record did not show that his local or regional accolades were nationally or internationally recognized for excellence in the field.

In the case here, the Petitioner's conclusory statements and previously made arguments do not meet the regulatory requirements for a motion to reconsider. He has not demonstrated that we incorrectly applied law or policy in our latest decision, dated February 4, 2019, or that we erroneously adjudicated the benefit based on the evidence in the record of proceedings at the time of the decision. *See* 8 C.F.R. § 103.5(a)(3). Moreover, the Petitioner did not show that any of his prizes or awards qualify under the regulation at 8 C.F.R. § 204.5(h)(3)(i). We will therefore deny his motion to reconsider.

B. Motion to Reopen

We will similarly deny the Petitioner's motion to reopen the matter. On motion, the Petitioner argues that he received incorrect correspondence from us informing him that we do not have a record of a

pending appeal with our office. Moreover, he requests that we inform the Director that he has a pending appeal in order to maintain his pending status relating to his Form I-485, Application to Register Permanent Residence or Adjust Status. The Petitioner submits copies of our November 2018 correspondence and the Director's October 2018 decision dismissing his motion to reconsider regarding the denial of his Form I-485.

As noted, a motion to reopen must state new facts to be provided in the reopened proceeding and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Here, the Petitioner did not demonstrate how his evidence relates to our prior decision denying his most recent motion filing.[3] Moreover, the Petitioner did not show how the correspondence and the Form I-485 decision establish his eligibility as an individual of extraordinary ability under section 203(b)(1)(A) of Act.

As he has not presented either new facts or new evidence in support of his eligibility for extraordinary ability classification, he has not satisfied the requirements for a motion to reopen.

III. CONCLUSION

The Petitioner has not shown that we incorrectly denied his most recent motions based on the record before us, nor does his new evidence on motion demonstrate that he has fulfilled at least three of the evidentiary criteria.

ORDER: The motion to reconsider is denied.

FURTHER ORDER: The motion to reopen is denied.

[3] Although the Petitioner asserts that our correspondence was incorrect, the record does not support his claim. Rather, the record reflects that the only appeal filed by the Petitioner was on October 7, 2013, which we dismissed on July 25, 2014. In addition, as we have no jurisdiction, any issues relating to his Form I-485 should be addressed in a separate proceeding to the Director.