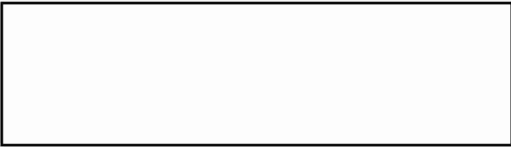


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
5900 Capital Gateway Drive
Mail Stop 2090
Camp Springs, MD 20588-0009



U.S. Citizenship
and Immigration
Services



In Re: 16763390
Date: September 1, 2021

Motion of Administrative Appeals Office Decision

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

The Petitioner, a multi-media and 3-D animator, seeks classification as an alien of extraordinary ability. The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner did not provide evidence of his receipt of a major, internationally recognized award, or, in the alternative, evidence that he meets at least three of the ten initial evidentiary criteria for this classification under 8 C.F.R. § 204.5(h)(3). The Petitioner filed an appeal, which was dismissed by the Administrative Appeals Office (AAO). The Petitioner filed a motion to reopen and reconsider the dismissal of his appeal, which was dismissed for not meeting the requirements of a motion.

The matter is now before us again on a second motion to reopen and reconsider. Upon review, we will dismiss the motion.

In these proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; Matter of Skirball Cultural Ctr., 25 I&N Dec. 799, 806 (AAO 2012).

A motion to reopen must state new facts and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration, be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy, and establish that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3).

On motion, the Petitioner indicated in Part 2 of the I-290B, Notice of Appeal or Motion, that he was filing an appeal and would submit his brief/additional evidence to the AAO within 30 days. In Part 7 of the Form I-290B, the Petitioner stated that he was "filing a motion to reopen and reconsider. . . . I am filing my brief with addit'l [sic] evidence in 30 days from this appeal." On June 1, 2020, the AAO received a brief related to the motion to reopen and reconsider. On August 20, 2020, we sent the Petitioner correspondence to confirm whether he intended to file an appeal, a motion to reopen, a motion to reconsider, or a motion to reopen and reconsider. We received the Petitioner's response on September 22, 2020. He indicated his intent was to file a motion to reopen and reconsider.

However, the regulations regarding the submission of a motion to reopen or a motion to reconsider do not provide an allowance for additional time to submit a statement, brief or additional evidence. See 8 C.F.R. § 103.5(a)(1)(iii), see also Instructions for Notice of Appeal or Motion, Form I-290B at 6 (rev. 5/17/2018). The second motion does not provide evidence that the brief was submitted by the Petitioner together with the Form I-290B of the first motion.

As the Petitioner did not meet the requirements of a motion to reopen or a motion to reconsider, we will dismiss the motion.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

