



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

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

In Re: 25801610

Date: FEB. 15, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, a musician, seeks classification as an individual of extraordinary ability. 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. *See* section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A).

The Director of the Nebraska Service Center denied the petition, finding that the Petitioner had only satisfied two of the initial three required evidentiary criteria. We agreed with the Director's decision and dismissed the Petitioner's appeal. We also dismissed the combined motion to reopen and motion to reconsider on the same grounds. The matter is now before us again on a combined motion to reopen and motion to reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motions.<sup>1</sup>

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). Further, the review of any motion is narrowed to the basis for the prior adverse decision. Accordingly, we will examine any new facts and

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<sup>1</sup> The Petitioner is also requesting oral argument because he believes his arguments have not been adequately addressed in writing by the previous decisions. The regulations provide that the requesting party must explain in writing why oral argument is necessary. Furthermore, U.S. Citizenship and Immigration Services (USCIS) has the sole authority to grant or deny a request for oral argument and will grant argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. *See* 8 C.P.R. § 103.3(b). In this instance, the Petitioner has not identified any unique factors or issues of law to be resolved. Further, we are not persuaded that the reasons for the Petitioner's request are sufficient to demonstrate the necessity for an oral argument. Moreover, the written record of proceedings, including the Petitioner's briefs on appeal and on motion, fully represents the facts and issues in this matter. Consequently, the request for oral argument is denied.

arguments to the extent that they pertain to our most recent decision, the dismissal of the prior combined motion to reopen and motion to reconsider.

In the present motion, the Petitioner continues to assert that his work has sustained national and international acclaim and that his work constitutes contributions of “major significance” in the music and entertainment industry. He further states that he has presented extensive documentation and evidence on appeal and on motion to satisfy at least three of the required evidentiary criteria. In support of his assertions, the Petitioner submits a news article by *Novascience*, dated [REDACTED] 2019, which confirms that he attended the masterclass by the [REDACTED]. Here, the news article does not state a new fact. We have previously acknowledged and discussed the Petitioner’s masterclass with [REDACTED] in our appeal dismissal and concluded that he did not establish that attending such a class is a nationally or internationally recognized prize or award for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i). Since the current motion to reopen does not include new facts or new evidence, the motion does not meet the requirement of a motion to reopen and must be dismissed.

The Petitioner has also not demonstrated any error of fact or law in our dismissal of the prior motion. The Petitioner argues that our prior decision was based on an incorrect application of law or policy because we did not adequately address the 2022 *Rolling Stone* article. The Petitioner asserts that this article is additional evidence that his work is of “major significance in the field” and, therefore, he satisfies the criterion at 8 C.F.R. 204.5(h)(3)(v). As discussed in our prior decision, the 2022 *Rolling Stone* article does not establish the Petitioner’s eligibility at the time of filing in 2021 as the article is from 2022. *See* 8 C.F.R. § 103.2(b)(1). Nevertheless, we have reviewed the article and find that it does not satisfy the “contributions of major significance in the field” criterion. The article outlines the Petitioner’s career and mentions his accomplishments in the music industry, which we have already addressed in our prior decisions. As previously noted, although the Petitioner’s work has had influence on individuals in the music and entertainment industry, he has not established that the impact of his music rises to the level of major significance in the field. The Petitioner has not established that we misapplied law or policy and that our prior decision was incorrect based on the evidence in the record of proceedings at the time of the decision. Thus, we will also dismiss the motion to reconsider.

**ORDER:** The motion to reopen is dismissed.

**FURTHER ORDER:** The motion to reconsider is dismissed.