



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

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

In Re: 36865313

Date: FEB. 18, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a voice actor, 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 Texas Service Center denied the petition in August 2023, concluding that the Petitioner did not establish that he had satisfied at least three of ten initial evidentiary criteria, as required. We dismissed a subsequent appeal in July 2024. The Petitioner then filed a timely combined motion to reopen and reconsider in August 2024, which we dismissed in November 2024. The matter is now before us on a second combined motion to reopen and 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 motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

The Petitioner's brief on motion refers in general terms to several pieces of evidence. For example, the Petitioner states that he is submitting "[a]dditional articles explicitly recognizing [his] achievements and contributions" and "newly obtained affidavits" relating to his claimed judging work. But the motion documents now before us do not include any such evidence. The very general descriptions of the absent evidence do not amount to identifiable new facts that would show proper cause to reopen the proceeding.

The Petitioner's latest motion does not meet the requirements of a motion to reopen, because it does not include any new facts or supporting evidence. Therefore, we will dismiss the motion as required by 8 C.F.R. § 103.5(a)(4).

A motion to reconsider must establish that our prior 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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

Our November 2024 decision, dismissing the Petitioner's August 2024 motion, rested on specific conclusions:

- The Petitioner's August 2024 motion did not meet the requirements of a motion to reopen at 8 C.F.R. § 103.5(a)(2), because the Petitioner did "not state new facts or offer new evidence."
- The Petitioner's August 2024 motion did not meet the requirements of a motion to reconsider at 8 C.F.R. § 103.5(a)(3). Specifically, the Petitioner asserted that our appellate decision did not adhere to the "preponderance of the evidence" standard. We concluded that the Petitioner did not "explain or identify a specific instance in which we applied a standard of proof other than the preponderance of evidence in dismissing the appeal." Without such details, the general claim that we applied the wrong standard of proof does not show proper cause for reconsideration.
- On motion in August 2024, the Petitioner argued that "the totality of the evidence should be considered in determining sustained national or international acclaim." Dismissing the motion, we concluded: "The Petitioner has offered no cogent legal argument establishing that we incorrectly applied the law or USCIS policy by reserving the totality of the evidence analysis in this case."
- In his August 2024 motion, the Petitioner argued that "we reached an incorrect conclusion on the criteria at 8 C.F.R. § 204.5(h)(3)(iii) and (x)." In dismissing that motion, we stated: "aside from disagreeing with our adverse conclusions on these criteria, the Petitioner does not explain how we erred in applying the law or USCIS policy." We explained why we had previously concluded that the Petitioner had not satisfied the requirements of those criteria.

The above conclusions are the only ones properly subject to the motion now before us. To establish proper cause for reconsideration, the Petitioner must establish that one or more of the above conclusions was in error. General assertions of eligibility, or arguments that the Director should have approved the petition, cannot suffice in this regard.

On motion, the Petitioner alleges various legal and procedural errors. In support of the motion, the Petitioner cites various regulations and precedent decisions.

In his present motion, the Petitioner again argues that we "failed to adhere to the preponderance of the evidence standard," and instead "impose[d] an unnecessarily restrictive evidentiary threshold." The Petitioner does not identify the threshold he believes we sought to impose in this way.

Considerable portions of the Petitioner's latest motion discuss previously claimed evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vii), and the provision at 8 C.F.R. § 204.5(h)(3) relating to "a one-time achievement (that is, a major, international[ly] recognized award." The Petitioner also asserts: "The cases cited by USCIS **Matter of Obaigbena** and **Matter of Ramirez-Sanchez** are inapplicable here. . . . USCIS's reliance on these precedents reflects a misunderstanding of my evidence and the collaborative nature of my field."

But our November 2024 decision, which is the only decision properly before us on motion, did not discuss any of those issues, and we did not cite *Matter of Obaigbena* or *Matter of Ramirez-Sanchez*. As a result, much of the Petitioner’s latest motion brief attempts to rebut conclusions that we did not make in our November 2024 decision.

Many of the Petitioner’s assertions and arguments appear to relate to the Director’s original August 2023 decision to deny the petition. That decision is not before us on appeal, and the Petitioner’s objections to that decision, whether repeated from earlier filings or newly raised on motion, do not show proper cause to reconsider our November 2024 decision.

In our November 2024 decision, we discussed the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(iii), pertaining to published material about the alien, and 8 C.F.R. § 204.5(h)(3)(x), pertaining to commercial successes in the performing arts. At this late stage in the proceeding, it cannot suffice for the Petitioner to repeat the general claim that he believes he satisfied the requirements of those criteria. Rather, he must identify specific errors of law or policy in our November 2024 decision and establish that we should have come to a different conclusion regarding each of those criteria. The Petitioner has not done so on motion.

Regarding published material, we summarized our conclusions from the July 2024 appellate decision, and stated:

On motion, the Petitioner merely references “[t]he article from uol.com.br” but he does not provide the name of the article in question or address the evidentiary deficiencies we highlighted. Instead, the Petitioner focuses on his “significant recognition” and “acknowledgement within the voice acting industry,” which are not relevant to a determination of whether he satisfied the specific elements comprising the criterion at 8 C.F.R. § 204.5(h)(3)(iii). Thus, the Petitioner has not identified legal error in our analysis and determination concerning this criterion.

In his second motion, the Petitioner does not address the above determinations. Instead, the Petitioner states: “USCIS concluded that the media articles submitted lacked specificity regarding my achievements and contributions, arguing they did not demonstrate sustained national or international acclaim.” The Petitioner then attempts to rebut those conclusions.

The quoted language does not accurately describe the conclusions stated in our November 2024 motion decision, and therefore the Petitioner has not established error in our November 2024 decision.

Regarding the criterion for commercial success, we summarized our prior determination and stated:

On motion, the Petitioner disagrees with our determination and argues that we must consider “the collective impact of evidence,” citing *Kazarian v. USCIS*, 596 F.3d 1115, to support this contention. However, as previously explained, on appeal we determined that there was no need to conduct a totality of the evidence analysis in a final merits determination since the Petitioner did not establish that he met the threshold requirement of demonstrating that he satisfied at least three of the initial evidentiary criteria. Here, the Petitioner has not established that we erred in foregoing a final merits determination under

the given circumstances, nor has he identified legal error in our analysis and determination concerning the criterion at 8 C.F.R. § 204.5(h)(3)(x). And although the Petitioner asserts that we erred by not “adequately consider[ing] the collective impact” of his contributions, he cites no law or USCIS policy to support the contention that collective impact of contributions is a factor we must consider to determine whether he satisfied this criterion.

In his latest motion, the Petitioner does not address the above conclusions. Instead, the Petitioner states:

USCIS asserted that the petitioner failed to provide a clear and demonstrable link between his contributions as a voice actor and the financial success of the productions he participated in. Specifically, USCIS referenced the lack of objective, documentary evidence directly attributing box office receipts, record sales, or other forms of commercial performance metrics to the petitioner’s involvement in these productions.

Although revenues and profits for films and series were submitted, USCIS concluded that the evidence did not adequately demonstrate the petitioner’s individual impact on the financial outcomes, dismissing generalized claims about the role of voice acting in broadening audience accessibility. Moreover, assertions made by counsel without corresponding evidence were deemed insufficient under precedents such as *Matter of Obaigbena* and *Matter of Ramirez-Sanchez*.

As above, the Petitioner’s assertions do not describe the conclusions in our November 2024 motion decision. The first quoted paragraph concerns determinations we made in our July 2024 appellate decision, and the second paragraph touches on determinations in the Director’s August 2023 denial notice. Neither of those earlier decisions are now before us on motion. The Petitioner’s attempt to revive issues from earlier decisions does not establish proper cause for reconsideration of the November 2024 decision.

The scope of a motion is limited to “the prior decision” and “the latest decision in the proceeding.” 8 C.F.R. § 103.5(a)(1)(i), (ii). The Petitioner’s second motion reargues facts and issues we have already considered in our earlier decisions. *See e.g., Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (“a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior Board decision”). We will not re-adjudicate the petition anew and, therefore, the underlying petition remains denied.

On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, we will dismiss the motion. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.