



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

MATTER OF R-A-S-

DATE: APR. 2, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner seeks classification as a member of the professions holding an advanced degree. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). The Petitioner also seeks a national interest waiver of the job offer requirement that is attached to this EB-2 immigrant classification. *See* section 203(b)(2)(B)(i) of the Act, 8 U.S.C. § 1153(b)(2)(B)(i). The Director of the Nebraska Service Center denied the petition and we dismissed the subsequent appeal. The matter is now before us on a motion to reopen and a motion to reconsider. Upon review, we will deny the motions.

A motion to reopen must state the new facts to be proved in the reopened proceeding 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 and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy. Upon filing, a motion must include all initial evidence required by applicable regulations and other USCIS instructions. 8 C.F.R. § 103.2(b)(1). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The Petitioner indicated on the Form I-290B, Notice of Appeal or Motion, that it was filed as a motion to reopen and reconsider and the Petitioner wrote on the Form I-290B that he would file a brief within 30 days. Although the regulation at 8 C.F.R. § 103.3(a)(2)(vii) states that a petitioner may be permitted additional time to submit a brief or additional evidence to us in connection with an appeal, no such provision applies to a motion to reopen or reconsider. The additional evidence must comprise the motion. *See* 8 C.F.R §§ 103.5(a)(2) and (3). The Petitioner has not asserted new facts to be proved in the reopened proceeding, and does not cite binding precedent decisions or other legal authority establishing that we or the director incorrectly applied the pertinent law or agency policy and that the prior decisions were erroneous based on the evidence of record at the time. Therefore, the motions do not satisfy applicable requirements.

Matter of R-A-S-

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of R-A-S-*, ID# 1319757 (AAO Apr. 2, 2018)