



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

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

In Re: 33555997

Date: SEP. 05, 2024

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Religious Worker)

The Petitioner, a religious organization, seeks to classify the Beneficiary as a special immigrant religious worker to perform services as an associate pastor. *See* Immigration and Nationality Act (the Act) section 203(b)(4), 8 U.S.C. § 1153(b)(4). This immigrant classification allows non-profit religious organizations, or their affiliates, to employ foreign nationals as ministers, in religious vocations, or in other religious occupations, in the United States. *See* Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Beneficiary possessed the requisite two-year qualifying religious work experience. *See* 8 C.F.R. § 204.5(m)(2), (4). We dismissed a subsequent appeal. The matter is now before us on a combined motion to reopen and reconsider.¹

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 combined motion.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(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 latest decision at issue here is not the Director's decision from the California Service Center but our decision dismissing the Petitioner's appeal, incorporated herein by reference. Our prior decision concluded that the Petitioner did not demonstrate the Beneficiary's two years of continuous full-time, compensated religious work experience, specifically from November 2017 to March 2018 while the Beneficiary was purportedly in "trainee status." We determined that the Petitioner did not offer any detailed information about the Beneficiary's work experience for this specific period. We also did not consider the one-page document titled [REDACTED] as it was

¹ Although the Petitioner's brief states that it is filing a motion to reconsider, the Form I-290B, Notice of Appeal or Motion, indicates that this is a combined motion to reopen and reconsider.

submitted for the first time on appeal citing *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988), and *Matter of Obaighena*, 19 I&N Dec. 533 (BIA 1988).

On motion, the Petitioner submits a brief and the Beneficiary's weekly schedule of duties from 2017 to 2018. The schedule of duties lists the hours and duties performed by the Beneficiary but does not demonstrate that the Beneficiary received compensation, either salaried or non-salaried, during the qualifying period as required by the regulation. The Petitioner refers to the same benevolence report previously submitted on appeal but still does not explain why it did not provide such evidence in response to the Director's request for evidence. Therefore, the Petitioner has not established new facts that would warrant reopening of the proceeding.

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). Again, our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii).

The Petitioner's contentions in the instant motion merely reargue facts and issues we have already considered in our previous decision. *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"). In fact, the Petitioner's motion brief contains the same language as its previous appellate brief and discusses the Director's error in denying the petition instead of addressing how our latest decision was incorrect. Therefore, the Petitioner has not met the requirements of a motion to reconsider.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. 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, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.