U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: FEB 18 2015 Office: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition on January 18, 2013. On June 21, 2013, the Administrative Appeals Office (AAO) upheld the director's decision, and dismissed the appeal. On November 29, 2013, we granted the subsequent motion to reopen and reconsider, but affirmed the decision after a full review on the merits. The petitioner filed a second motion, which we dismissed on June 25, 2014, also addressing the merits. The petitioner subsequently submitted a third motion we dismissed on October 15, 2014, once again addressing the merits to some degree. The matter is now before us on a fourth motion. The current motion is a motion to reopen. We will dismiss the motion.

According to part 6 of the Form I-140, the petitioner seeks classification as an "alien of extraordinary ability" as a lawyer, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), which makes visas available to aliens 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 determined that the petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria. Specifically, the petitioner has not submitted qualifying evidence of a one-time achievement pursuant to 8 C.F.R. § 204.5(h)(3), or evidence that satisfies at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x). In our appellate decision and in all three motion decisions, irrespective of the petitioner's proposed occupation, the AAO considered whether the petitioner had met any of the regulatory criteria at 8 C.F.R § 204.5(h)(3), and concluded he had not satisfied any of them.

"A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence." 8 C.F.R. § 103.5(a)(2). Our analysis within this motion is limited to the issues contained in the most recent decision, the decision on the motion to reopen dated October 15, 2014. Furthermore, the petitioner's motion to reopen must present new facts supported by evidence. We discussed the following issues in the October 15, 2014 decision that the petitioner must address within this motion:

1. That his Master of Business Administration degree postdated the filing of the petition and, while it demonstrated his education, it did not demonstrate that his future employment would be as an educator;
2. The petitioner's interest in an international law workshop in 2009 and post-filing participation in a similar workshop in 2011 did not change his proposed occupation from lawyer to educator;
3. The petitioner did not submit new facts relating to the June 25, 2014 motion decision and, therefore, the filing did not meet the requirements of a motion to reopen;
4. The evidence in the form of email correspondence between the petitioner and a representative of [redacted] does not demonstrate that the petitioner has satisfied the plain language requirements of the membership criterion at 8 C.F.R § 204.5(h)(3)(ii);

5. The petitioner did not explain how the 2013 Policy Recommendations for [redacted] Next Mayor from the [redacted] Bar, which does not name or cite the petitioner, demonstrates that the petitioner has performed in a leading or critical role for [redacted] or any other distinguished organization or establishment; *see* 8 C.F.R. § 204.5(h)(3)(viii).
6. The petitioner did not address the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi).

The present motion to reopen addresses item 2 above, asserting and documenting his participation in the 2009 workshop, which predates the filing of the petition. However, within the current motion, the petitioner did not address the remaining items which are fundamental to eligibility. We have addressed the merits of the petitioner's bases for eligibility within the decisions issued on the following dates: June 21, 2013; November 29, 2013, June 25, 2014; October 15, 2014. In each of these instances, we explained the bases for our conclusion that the petitioner's evidence did not support his eligibility claims under the criteria set forth at 8 C.F.R § 204.5(h)(3)(i)-(x). A successful motion must overcome not only our discussion of his occupation, but also our conclusion that his previous filing did address all of our previous concerns and that his evidence does not satisfy any of the criteria at 8 C.F.R § 204.5(h)(3).

While the petitioner may have discussed his area of intended employment within this motion, because the petitioner did not address and overcome each of the issues we discussed in our most recent decision, he did not establish that his case warrants reopening and has essentially abandoned those issues. *Cf. Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir.2005); *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885 at *9 (E.D. N.Y. Sept. 30, 2011). Accordingly, any future motion will need to overcome our conclusion that this motion did not address all of the bases for our most recent decision.

Motions for the reopening of immigration proceedings are disfavored for the same reasons as are petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. *INS v. Doherty*, 502 U.S. 314, 323, (1992) (citing *INS v. Abudu*, 485 U.S. 94, 108 (1988)); *see also Selimi v. Ashcroft*, 360 F.3d 736, 739 (7th Cir. 2004). "There is a strong public interest in bringing litigation to a close as promptly as is consistent with the interest in giving the adversaries a fair opportunity to develop and present their respective cases." *INS v. Abudu*, 485 at 107. Based on its discretion, "[T]he [USCIS] has some latitude in deciding when to reopen a case. [USCIS] should have the right to be restrictive. Granting such motions too freely will permit endless delay of deportation by aliens creative and fertile enough to continuously produce new and material facts sufficient to establish a prima facie case." *Id.* at 108. The result also needlessly wastes the time and efforts of the triers of fact who must attend to the filing requests. *Id.* A party seeking to reopen a proceeding bears a "heavy burden." *Id.* at 110. With the current motion, the petitioner has not met that burden.

In visa petition 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 Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The motion to reopen is dismissed. The decision of the AAO dated July 2, 2012, is affirmed, and the petition remains denied.