U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 22836163

Date: AUG. 30, 2022

Motion on Administrative Appeals Office Decision

Form I-129, Petition for Nonimmigrant Worker (Religious Worker – R-1)

The Petitioner, a religious organization, seeks to classify the Beneficiary as an R-1 nonimmigrant religious worker to perform services as an imam. *See* Immigration and Nationality Act (the Act) Section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This nonimmigrant R-1 classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers, in religious vocations, or in religious occupations in the United States.

The Director of the California Service Center denied the petition on multiple grounds. *See* 8 C.F.R. § 214.2(r)(3) (defining "minister"), (7), (8), (10), (11) (2019). In August 2020, the Petitioner initiated an appeal, filing a Notice of Appeal or Motion (Form I-290B). It stated on page 2 of the Form I-290B that "I am filing an appeal to the AAO [Administrative Appeals Office]. I will submit my brief and/or additional evidence to the AAO within 30 calendar days of filing the appeal." Page 6 of the Instructions for Notice of Appeal or Motion specified in bold: "Any brief and/or evidence submitted after you file Form I-290B must be sent directly to the AAO." The regulation at 8 C.F.R. § 103.2(a)(1) explains: "The form's instructions are hereby incorporated into the regulations requiring its submission."

The Petitioner, however, did not timely submit an appellate brief or additional evidence to us. As such, we summarily dismissed its appeal. *See* 8 C.F.R. § 103.3(a)(1)(v), (2)(i) (2020). The Petitioner then filed a motion to reconsider the matter. On motion, the Petitioner did not dispute its failure to submit its appellate brief or additional evidence to us. We therefore dismissed the motion, concluding that the Petitioner failed to establish that our summary dismissal decision was based on an incorrect application of law or U.S. Citizenship Immigration Services (USCIS) policy or that our prior decision was incorrect based on the evidence then before us. *See* 8 C.F.R. § 103.5(a)(3).

The matter is now before us on a second motion filing, a motion to reopen the proceeding. Upon review, we will dismiss the motion. *See* 8 C.F.R. § 103.5(a)(2).

I. LAW

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility

for the requested immigration benefit. In addition, by regulation, the scope of a motion is limited to "the prior decision." 8 C.F.R. § 103.5(a)(1)(i).

As relating to an appeal, the regulation at 8 C.F.R. § 103.3(a)(1)(v) (2020) provides: "An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal." Moreover, "[t]he affected party must submit an appeal on Form I-290B" and "must submit the complete appeal including any supporting brief as indicated in the applicable form instructions within 30 days after service of the [Director's] decision." 8 C.F.R. § 103.3(a)(2)(i); *see also* 8 C.F.R. § 103.3(a)(2)(vii) (noting that we may grant a written request for additional time to submit a brief for good cause shown).

II. ANALYSIS

The issue before us is whether the Petitioner has "state[d] the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence," as relating to our previous decision dismissing its motion to reconsider the matter. 8 C.F.R. § 103.5(a)(2); *see also* 8 C.F.R. § 103.5(a)(1)(i), (3). The documentation the Petitioner now offers on motion does not address the basis under which we dismissed its first motion, a motion to reconsider the matter. Rather, the evidence submitted on motion relates to the multiple grounds under which the Director denied the petition. As noted, by regulation, the scope of a motion is limited to "the prior decision," in this case, our previous motion decision. *See* 8 C.F.R. § 103.5(a)(1)(i).

As the Petitioner's instant motion and accompanying evidence do not state new facts that are supported by documentary evidence, as relating to our previous motion decision, the filing does not meet the motion to reopen requirements. We will therefore dismiss the motion.

III. CONCLUSION

The Petitioner has failed to "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). We will dismiss its motion to reopen the proceeding, as the filing does not address or overcome our finding in our previous motion decision that our summary dismissal of its appeal was not based on an incorrect application of law or policy or incorrect based on the evidence then before us.

ORDER: The motion to reopen is dismissed.