U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43732628

Date: AUG. 06, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a fashion stylist, seeks classification as an individual 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 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. *Id.*

USCIS denied the petition, concluding that the record did not establish that the Petitioner met the initial evidentiary requirements through evidence of a one-time achievement or meeting at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The Petitioner subsequently filed a combined motion to reopen and motion to reconsider, which USCIS dismissed as untimely filed. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

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). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

The sole issue before us on appeal is whether USCIS properly dismissed the Petitioner's motion to reopen and motion to reconsider as untimely filed. Motions to reopen or reconsider must be filed within 30 days of the decision, or 33 days if the decision is served by mail. 8 C.F.R. § 103.5(a)(1)(i), 103.8(b). Here, the record reflects that USCIS' decision was issued on November 28, 2025, and that the Petitioner's Form I-290B, Notice of Appeal or Motion, was received by USCIS on December 30, 2025, 32 days after that decision.[1] Since the Petitioner's Form I-290B was received within 33 days of the decision, the motions appear to have been timely filed. Therefore, we will remand the matter for USCIS to adjudicate the motions on their merits.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

[1] The Petitioner submitted a delivery confirmation page and the USCIS receipt notice with her appeal.