U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37238387

Date: FEB. 26, 2025

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, a mathematics teacher, seeks employment-based second preference (EB-2) immigrant classification as a member of the professions holding an advanced degree and a national interest waiver of the job offer requirement attached to this classification. See section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding the Petitioner had not established a waiver of the required job offer, and thus of the labor certification, would be in the national interest. We summarily dismissed the appeal and five subsequently filed combined motions to reopen and to reconsider. The Petitioner then filed an appeal of our motion decision, which we rejected. After the rejected appeal, the Petitioner filed an additional four motions to reopen and to reconsider. The matter is now before us on combined motions to reopen and to reconsider for a tenth time.

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 motions.

A motion on an unfavorable decision must be filed within 33 calendar days of the date we mailed the decision. 8 C.F.R. §§ 103.5(a)(1), 103.8(b). On December 5, 2024, we mailed the Petitioner a notice of dismissal of her combined motions to reopen and to reconsider. On January 10, 2025, we received the Petitioner's Form I-290B, Notice of Appeal or Motion, requesting us to reopen and to reconsider our prior decision, which is 36 days after the unfavorable decision. Consequently, the motion to reconsider, which was filed after 33 days of the unfavorable decision, is dismissed. The Petitioner's motion to reopen does not claim or demonstrate that the delay in filing was reasonable or beyond the Petitioner's control. See 8 C.F.R. § 103.5(a)(1)(i) (providing guidance on late filed motions to reopen). As a result, the Petitioner's motion to reopen is also dismissed as untimely filed.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed