U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40220586

Date: JAN. 22, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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 who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

Service Center Operations (SCOPS) 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). SCOPS dismissed a subsequently filed motion to reopen and reconsider as untimely. 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.

On appeal, the Petitioner contends SCOPS erroneously dismissed his motion without rendering a decision on its merits because they did not consider his motion under the applicable COVID-19-related flexibilities to filing deadlines. Specifically, he cites the U.S. Citizenship and Immigration Services (USCIS) policy guidance issued on January 24, 2023, which extended those flexibilities related to the filing of the Form I-290B, Notice of Appeal or Motion. This temporary flexibility allowed for the filing of a Form I-290B within 90 calendar days of an adverse decision, with three days added for service by mail under 8 C.F.R. § 103.8(b), for decisions issued between November 1, 2021, and March 23, 2023. *See* USCIS Policy Alert, *USCIS Extends COVID-19-related Flexibilities* (Jan. 24. 2023), https://www.uscis.gov/newsroom/alerts/uscis-extends-covid-19-related-flexibilities-1; *see also* USCIS Policy Alert, *USCIS Announces End of COVID-Related Flexibilities* (Mar. 23, 2022), https://www.uscis.gov/newsroom/alerts/uscis-announces-end-of-covid-related-flexibilities.

Here, SCOPS issued the decision denying the petition on March 16, 2023, and the Petitioner filed his Form I-290B and motion on June 15, 2023 – 91 days after the adverse decision. SCOPS does not dispute the Form I-290B was filed on June 15, 2023. As such, the Petitioner's motion should have been considered timely filed under the USCIS policy at the time of filing. We will withdraw SCOPS' decision and remand the matter for entry of a full decision on the merits of the motion.

ORDER: The decision is withdrawn.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