U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41588053

Date: JUL. 16, 2026

Motion on Administrative Appeals Office Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner[1] seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) Section 203(b)(5), 8 U.S.C. § 1153(b)(5) (2019).[2] This fifth preference (EB-5) classification makes immigrant visas available to aliens who invest the requisite amount of qualifying capital in a new commercial enterprise (NCE) that will benefit the United States economy and create at least 10 full-time positions for qualifying employees.

U.S. Citizenship and Immigration Services (USCIS) denied the petition. We dismissed the subsequent appeal, concluding the Petitioner failed to establish that at the time he filed the petition in November 2019, he had invested or was actively in the process of investing the required amount of capital in [redacted], LP, the NCE associated with [redacted] LLC. *See* 8 C.F.R. § 204.6(j)(2) (2019). The matter is now before us on motion to reopen.

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 motion.

The relevant regulation provides, in pertinent part:

> . . . Any motion to reopen a proceeding before [USCIS] filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion

[1] The Petitioner filed a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, indicating that [redacted] was his attorney for this motion. In [redacted] 2025, the Virginia State Bar Disciplinary Board revoked Mr. [redacted] license to practice law. Mr. [redacted] is also listed on the Executive Office for Immigration Review's (EOIR) Disciplined Practitioners list. *See* 8 C.F.R. § 292.3(a)(1); *see also* 8 C.F.R. § 1.2 (defining "attorney" as any person eligible to practice law who is not "under any order suspending, enjoining, restraining, disbarring, or otherwise restricting him or her in the practice of law"). As such, we must treat the Petitioner as self-represented. This means that we will send all future notices, decisions, and other communications for this matter only to the Petitioner at the mailing address provided on his Form I-290B.

[2] On March 15, 2022, the EB-5 Reform and Integrity Act of 2022 was signed into law, revising general eligibility requirements, substantially reforming and codifying the Regional Center Program in Section 203(b)(5) of the Act, and adding significant new integrity provisions. *See* Section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). As the Petitioner had filed his petition in 2019, the relevant law then in existence governs this matter.

> of [USCIS] where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner.

8 C.F.R. § 103.5(a)(1)(i).

In this case, the Petitioner has not filed the instant motion to reopen timely and has not established that the delay was reasonable and beyond his control. Specifically, we dismissed his appeal on June 6, 2025. He filed the instant motion to reopen on September 3, 2025, 89 days later. On motion, he claims that he had attempted to file the motion earlier but acknowledges that he did not send his filing to the correct location. He offers documents showing that he had initially mailed his filing to an address in Camp Springs, Maryland, noting that he had "submitted the [Form] I-290B [Notice of Appeal or Motion] to the address listed on the Denial Decision."

In support of the instant motion, the Petitioner submits a copy of our June 2025 decision dismissing his appeal. This is the decision that the motion seeks to reopen. Our June 2025 decision includes a cover page. The upper right-hand side of the cover page lists our address at Camp Springs, Maryland. The body of the cover page specifies in bold "Please do not mail any motions directly to the AAO [Administrative Appeals Office]." Instead, it explains that "The Form I-290B website (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements." In his earlier attempt to file the motion, the Petitioner failed to follow the Form I-290B filing instructions. Then on September 3, 2025, he followed the filing instructions and mailed his motion to the correct address. His motion is therefore considered properly filed on September 3, 2025, 89 days after we issued our appellate decision. *See* 8 C.F.R. § 103.2(a)(7)(i) (providing that "USCIS will consider a benefit request received and will record the receipt date as of the actual date of receipt at the location designated for filing such benefit request whether electronically or in paper format"); *see also* 8 C.F.R. § 103.2(a)(6) (providing that "All benefit requests must be filed in accordance with the form instructions").

While the Petitioner has explained his untimely motion filing, he has not demonstrated that "the delay was reasonable and was beyond [his] control." He has not shown that mailing his filing to an incorrect address and not following Form I-290B filing instructions were reasonable and were beyond his control. *See* 8 C.F.R. § 103.5(a)(1)(i). Accordingly, we will dismiss his motion to reopen as untimely filed.

ORDER: The motion to reopen is dismissed.

NOTICE: Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.