U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF J-H-O-S-, LLC

DATE: JUNE 1, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a seller of aftermarket car parts, seeks to employ the Beneficiary as its advertising and promotions director. It requests classification of the Beneficiary as a professional under the third preference immigrant classification. Immigration and Nationality Act (the Act) section 203(b)(3)(A)(ii), 8 U.S.C. § 1153(B)(3)(A)(ii). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with a baccalaureate degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition and we dismissed the subsequent appeal. The matter is now before us on a motion to reopen and a motion to reconsider. Upon review, we will deny the motions as untimely filed.

A motion must be filed within 33 calendar days of the date that the unfavorable decision was served by mail. 8 C.F.R. §§ 103.5(a)(1)(i); 103.8(b). The filing date is the day USCIS receives the motion at the designated filing location, not the date the Petitioner mailed the motion. 8 C.F.R. § 103.2(a)(7)(i).

On March 29, 2018, we dismissed the Petitioner's appeal and served the unfavorable decision by mail. The decision stated that the Petitioner may file a motion within 33 days. USCIS received the motion on May 2, 2018, which is 34 days after the service date of the unfavorable decision. Accordingly, we are denying the motions as untimely filed.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of J-H-O-S-, LLC*, ID# 1691493 (AAO June 1, 2018)