U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF M-A-N-

DATE: JUNE 4, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-526, IMMIGRANT PETITION BY ALIEN ENTREPRENEUR

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

The Chief of the Immigrant Investor Program Office denied the petition and we dismissed the subsequent appeal. The matter is now before us on a motion to reconsider. Upon review, we will deny the motion as untimely.

A motion must be filed within 33 calendar days after 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 February 28, 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 April 4, 2018, which is 35 days after the service date of the unfavorable decision. Accordingly, the motion is untimely.

ORDER: The motion to reconsider is denied.

Cite as *Matter of M-A-N-*, ID# 1633398 (AAO June 4, 2018)