U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37362186

Date: JUN. 20, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a singer, 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. *Id*.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner has a one-time achievement (that is, a major internationally-recognized award) or meets at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). We summarily dismissed the Petitioner's appeal. We then rejected an appeal of the summary dismissal decision. The matter is now before us on a 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.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and establishes eligibility for the benefit sought. A motion to reopen filed by a petitioner must be filed within 30 days of the decision that the motion seeks to reopen (or 33 days if the decision is mailed), except that failure to file before this period expires may be excused in the discretion of U.S. Citizenship and Immigration Services where it is demonstrated that the delay was reasonable and was beyond the control of the petitioner. 8 C.F.R. § 103.5(a)(1)(i).

The record reflects that SCOPS denied the petition on May 2, 2024, the Petitioner filed an appeal on May 31, 2024, and we summarily dismissed the appeal on August 29, 2024. In this decision, we stated that the Petitioner's appeal did not specifically identify any erroneous conclusion of law or statement of fact. We noted the Petitioner's statement that he would file a brief and/or additional evidence to us within 30 calendar days of filing the appeal, but that we did not receive a brief or additional evidence as of the date of the decision. The Petitioner filed an appeal of the summary dismissal, and we rejected the appeal on October 24, 2024, as we do not have jurisdiction over appeals of our decisions. The Petitioner has now filed a motion to reopen our August 29, 2024, summary dismissal decision. He asserts that after filing his Form I-290B, he submitted a brief prior to our summary dismissal decision. The Petitioner includes United States Postal Service tracking information showing delivery of a

package on July 5, 2024, to Essex Junction, VT, the location of the Vermont Service Center.[1] However, the Form I-290B instructions clearly provide in bold print that "any brief or additional evidence submitted after you file Form I-290B must be sent directly to the AAO." *Form I-290B Instructions*, at 6, https://www.uscis.gov/sites/default/files/document/forms/i-290binstr.pdf. Therefore, our summary dismissal decision, where we stated that the Petitioner did not specifically identify any erroneous conclusion of law or statement of fact and that we did not receive a brief or additional evidence, was correct. Regardless, the current motion to reopen was filed on December 12, 2024, which is 105 days after his appeal was summarily dismissed. Therefore, his motion to reopen was untimely filed. The Petitioner has not established that the delay in filing his motion to reopen was reasonable and beyond his control. The Petitioner's motion to reopen will be dismissed as untimely filed.

ORDER: The motion to reopen is dismissed.

[1] The denial decision was issued by the Nebraska Service Center.