U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38933001

Date: JUN. 26, 2025

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner seeks employment-based second preference (EB-2) immigrant classification as either a member of the professions holding an advanced degree or an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not establish eligibility for the underlying immigrant classification, or that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. SCOPS also dismissed the subsequent combined motions to reopen and reconsider. On appeal, we withdrew SCOPS' motions decision and remanded the matter. SCOPS again dismissed the combined motions, and we dismissed a subsequent appeal and a second combined motion to reopen and reconsider, concluding that the Petitioner did not demonstrate that the proposed endeavor was of national importance. We then dismissed three motions to reopen because they were untimely. The matter is now before us on a sixth 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). 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 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). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

In our decision dismissing the Petitioner's fifth motion to reopen, we explained that the Form I-290B, Notice of Appeal or Motion, was not received until March 27, 2025, which was 42 days after our February 13, 2025 decision and, therefore, it was dismissed as untimely.

On current motion, the Petitioner asserts that the untimely filing of the fifth motion was both reasonable and beyond his control. The Petitioner contends that U.S. Citizenship and Immigration Services (USCIS) Lockbox erroneously rejected his fifth motion filing due to a misunderstanding, which resulted in an untimely filing. The Petitioner claims that his fifth motion filing included a copy of the Form G-1450, Authorization for Credit Card Transactions, as evidence to show that the fourth motion was properly filed, along with a filing fee check for the fifth motion. The Petitioner also states that a brief statement was included with the fifth motion filing which explained that the Form G-1450 was evidence related to the fourth motion and not a payment. The Petitioner claims SCOPS rejected the fifth motion filing and noted that an "application/petition cannot contain a mix of check, money order, and G-1450 payments." We note that the Petitioner did not submit evidence to corroborate his claims that his fifth motion filing was erroneously rejected such as a copy of the fifth motion filing, which the Petitioner claims include a copy of the Form G-1450 and a brief statement. Moreover, USCIS records show that the March 27, 2025 motion to reopen also did not include a copy of the erroneously rejected motion. Again, a motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.