U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF D-S-J-

DATE: MAR. 2, 2017

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Petitioner, a mathematician who proposes to found a company and serve as its chief executive officer, seeks classification as an "alien of extraordinary ability" in the sciences. *See* Immigration and Nationality Act § 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This classification makes visas available to foreign nationals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director, Nebraska Service Center, denied the petition. The Petitioner appealed the matter to us. We withdrew the Director's decision and remanded the matter for further consideration and entry of a new decision. The Director certified the matter to us. We affirmed the certified decision. 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 25, 2016, we affirmed the certified decision of the Director, Nebraska Service Center, 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 28, 2016, which is 34 days after the service date of the unfavorable decision. Therefore, the motions are untimely filed.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of D-S-J-*, ID# 405243 (AAO Mar. 2, 2017)