



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 18680380

Date: SEP. 15, 2022

Motion on Administrative Appeals Office Decision

Form I-360, Petition for Special Immigrant Juvenile

The Petitioner seeks classification as a special immigrant juvenile (SIJ) under sections 101(a)(27)(J) and 204(a)(1)(G) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(27)(J) and 1154(a)(1)(G). The Director of the National Benefits Center (Director) denied the petition. We dismissed the Petitioner's appeal. The matter is now before us on a motion to reopen. On motion, the Petitioner submits additional evidence and asserts his eligibility for SIJ classification. Petitioners bear the burden of proof to demonstrate their eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon review, we will dismiss the motion.

The regulations require that a motion to reopen be filed within 30 days of the decision that the motion seeks to reopen, including three days for service by mail. 8 C.F.R. § 103.5(a)(1)(i); 8 C.F.R. § 103.8(b). The regulations specific to a motion to reopen indicate that untimeliness may be excused "where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner." 8 C.F.R. § 103.5(a)(1)(i). The date of filing is not the date of mailing, but the date when U.S. Citizenship and Immigration Services (USCIS) receives the intended motion: (1) completed, signed, and accompanied by the required fee as specified by the Form I-290B, Notice of Appeal or Motion, instructions; and (2) at the location that those instructions designate for filing motions.¹

We acknowledge that USCIS has granted flexibility with respect to the filing of motions due to the coronavirus pandemic. Consistent with USCIS guidance, we accept Forms I-290B filed up to 60 calendar days from the date of decisions issued anytime between March 1, 2020, and September 30, 2021. See USCIS Alert, "USCIS Extends Flexibility for Responding to Agency Requests," (Mar. 30, 2022), <https://www.uscis.gov/newsroom/alerts/uscis-extends-flexibility-for-responding-to-agency-requests-1>.

Upon review, we will dismiss the motion as untimely. The record reflects that the Petitioner's appeal dismissal was mailed on February 8, 2021. The Petitioner's form I-290B was received at the designated filing location on May 14, 2021, which is 95 days after the decision. Therefore, the record

¹ See 8 C.F.R. §§ 103.2(a)(1) ("every benefit request or other document submitted to DHS must be executed and filed in accordance with the form instructions" and with whatever fees are required by regulation); 103.2(a)(6) (form instructions specify filing location).

reflects that the motion to reopen was untimely. The Petitioner does not submit evidence to demonstrate that the delay in filing the motion to reopen was beyond his reasonable control. Therefore, it must be dismissed as untimely.

ORDER: The motion to reopen is dismissed.