



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

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

In Re: 27100619

Date: June 21, 2023

Appeal of Nebraska Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks U nonimmigrant classification under sections 101(a)(15)(U) and 214(p) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The Director of the Nebraska Service Center denied the Petitioner's Form I-918, Petition for U Nonimmigrant Status (Form I-918), concluding that he did not establish his admissibility and his corresponding Form I-192, Application for Advance Permission to Enter as Nonimmigrant (Form I-192), to waive his inadmissibility had been denied as a matter of discretion. The Petitioner filed a Form I-290B, Notice of Appeal or Motion (Form I-290B), with the Director, requesting reconsideration and reopening of the decision on the Form I-918. The Director dismissed the Form I-290B as untimely.

The Director's dismissal of the Petitioner's Form I-290B as untimely is now before us on appeal. 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 de novo review, we will remand the matter to the Director for the issuance of a new decision.

Motions generally must be filed within 33 days of the Director's adverse decision. 8 C.F.R. §§ 103.5(a)(1), 103.8(b). However, as part of its response to the coronavirus (COVID-19) pandemic, USCIS extended the deadline for filing a Form I-290B, Notice of Appeal or Motion. This temporary flexibility allowed for the filing of a Form I-290B within 90 calendar days of an adverse decision, with three days added for service by mail under 8 C.F.R. § 103.8(b), for decisions issued between November 1, 2021, and March 23, 2023. See USCIS Policy Alert, USCIS Extends COVID-19-related Flexibilities (Jan. 24, 2023), <https://www.uscis.gov/newsroom/alerts/uscis-extends-covid-19-related-flexibilities-1>; see also USCIS Policy Alert, USCIS Announces End of COVID-Related Flexibilities (Mar. 23, 2022), <https://www.uscis.gov/newsroom/alerts/uscis-announces-end-of-covid-related-flexibilities>.

The adverse decision in this case was issued by the Director on December 17, 2021. As per the COVID-19 filing flexibilities noted above, the filing of a Form I-290B in response to a decision issued at that time is considered timely filed if received within 93 calendar days of that decision, or no later than March 20, 2022 (a Sunday). Because the 93rd day was a Sunday, an additional day is added to

the filing deadline. 8 C.F.R. § 1.2. Thus, the correct due date under the COVID-19 filing flexibilities was March 21, 2022.

The Director does not dispute that the Form I-290B was filed on March 21, 2022. Accordingly, the Director's determination that the Form I-290B was untimely was erroneous and we remand the matter to the Director to consider the motion on the merits.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.