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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File: [Redacted] Office: Nebraska Service Center Date:

JUN 6 2001

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:



Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined the petitioner has not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability, and that the petitioner has failed to submit evidence of how he intends to work in his area of expertise in the United States.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On the Form I-290B Notice of Appeal, filed on March 21, 2000, counsel indicated that a brief would be forthcoming within thirty days. To date, fourteen months later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision.

On the appeal form, counsel offers several conclusions describing purported errors in the director's decision, but counsel provides no arguments or evidence to justify those conclusions. For example, counsel contends that the petitioner has received awards and memberships "which are only offered to the very top level of students and teachers." This assertion is unsupported on appeal. The assertions of counsel do not constitute evidence. Matter of Laureano, 19 I&N Dec. 1, 3 (BIA 1983); Matter of Obaiqbena, 19 I&N Dec. 533, 534 (BIA 1988); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 (BIA 1980).

Counsel asserts "[i]t was unfair for the Service to characterize [the petitioner's] success in the United States in terms of receipt of a job offer." The director did not deny the petition based on the lack of a specific job offer; rather, the director observed that the petitioner "has not provided information concerning how . . . he intends to pursue his work in the U.S." The director's requirement of this information, far from being "unfair," is supported by 8 C.F.R. 204.5(h)(5) and section 203(b)(1)(A)(ii) of the Act. Indeed, it would be unfair for the Service to waive this statutory requirement simply because the petitioner is evidently unable to meet it.

The bare assertion that the director somehow erred in rendering the decision is not sufficient basis for a substantive appeal. The closest thing counsel offers to a substantive argument is readily contradicted by the underlying statute itself, and thus demands no further inquiry.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is summarily dismissed.