

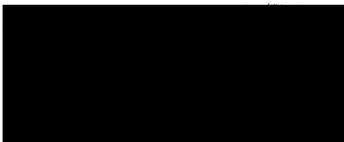


B2

U.S. Department of Justice
Immigration and Naturalization Service

Identifying data deleted to
prevent identity unwarranted
invasion of personal privacy

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



File: [Redacted]
SRC 01 134 51941

Office: Texas Service Center

Date: DEC 09 2002

IN RE: Petitioner:
Beneficiary:



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:

SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 that 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, Director
Administrative Appeals Office

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

The petitioner, an auto body shop, seeks to classify the beneficiary 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. The director determined the petitioner had failed to submit evidence establishing that the beneficiary qualifies for classification as an alien of extraordinary ability.

On appeal, [REDACTED], merely stated: "We had sent all the papers requested, but apparently they did not arrive on time."

The Service regulation at 8 C.F.R. 103.2(b)(8) provides, in pertinent part:

Except as otherwise provided in this chapter, in other instances where there is no evidence of ineligibility, and initial evidence or eligibility information is missing or the Service finds that the evidence submitted either does not fully establish eligibility for the requested benefit or raises underlying questions regarding eligibility, the Service shall request the missing initial evidence, and may request additional evidence, including blood tests. In such cases, the applicant or petitioner shall be given 12 weeks to respond to a request for evidence. Additional time may not be granted. Within this period the applicant or petitioner may:

- (i) Submit all the requested initial or additional evidence;
- (ii) Submit some or none of the requested additional evidence and ask for a decision based on the record; or
- (iii) Withdraw the application or petition.

On April 3, 2002, the director issued a request for evidence citing the regulatory criteria at 8 C.F.R. 204.5(h)(3).

In response, the petitioner submitted a letter stating: "I am sending my notice back, because I did not know what documents I am missing. Please send me a list of what is needed..." The request for evidence dated April 3, 2002, however, clearly described the specific documentation needed to classify the beneficiary as an alien of extraordinary ability.

On June 29, 2002, the director denied the petition acknowledging the petitioner's response, but stating the petitioner had "not submitted the required evidence."

On appeal, the petitioner offers no specific arguments addressing the regulatory criteria at 8 C.F.R. 204.5(h)(3), nor copies of the documentation that [REDACTED] now claims "did not arrive in time."

Jorge Grajeda indicated that he would not be submitting a separate brief or evidence. As stated in 8 C.F.R. 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The petitioner has not specifically addressed the reasons stated for denial and has not provided any additional evidence. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.