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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



16 DEC 2002

File: WAC 02 095 51465 Office: CALIFORNIA SERVICE CENTER Date:

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 reviewed and the case has been finally 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

for Elizabeth Hayward
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California 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 had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

8 C.F.R. 103.3(a)(1)(v) states, in pertinent part, “[a]n 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.”

While the petitioner is represented by counsel, there is no indication that counsel participated in the preparation or submission of the appeal. On the Form I-290B Notice of Appeal, the petitioner indicated that he was not submitting a separate brief or evidence; thus, the appeal notice itself constitutes the entirety of the appeal.

The statement on the appeal form reads, in its entirety: “Extraordinary ability of the petitioner is initiatory study of Basic Medical Science, but not study of Practical Medical Science, and not ‘you are seeking employment as a physician.’” The petitioner thus protests the director’s assertion that the petitioner seeks employment as a “physician” rather than a person studying medical science. We note that, in the cover letter which accompanied the initial filing of the petition, the petitioner stated “I am a medical doctor.” Other documents in the record similarly refer to the petitioner as a “doctor.” While the director’s choice of words does not describe the full scope of the petitioner’s activities, the denial did not rest on the finding that the petitioner is a physician. The director’s decision contains several detailed observations and findings regarding the petitioner’s evidence, and the petitioner, on appeal, addresses none of these findings. The petitioner does not show how the outcome of the decision would have been different if the director had not called him a “physician.” The petitioner’s protest about the director’s wording is not sufficient basis for a substantive appeal, especially given the petitioner’s own description of himself as a “medical doctor.”

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.