



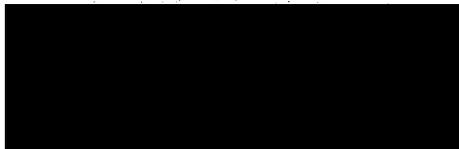
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U.S. Department of Justice

Immigration and Naturalization Service

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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



File: WAC 99 242 54230

Office: California Service Center

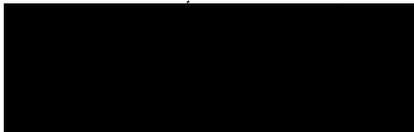
Date: JUL 19 2002

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:



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, 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 arts. 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:

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 appeal, the petitioner submits a five-page brief from counsel. The majority of this document is identical, or nearly so, to the introductory letter submitted with the initial petition, as well as a slightly modified letter submitted in response to the director's request for additional evidence. Resubmission of material already in the record adds nothing of substance to that record.

Counsel has added short passages at the beginning and end of this brief which reference the decision, but these passages contain only general statements such as the assertion that the director "failed to properly consider and evaluate thoroughly all the evidence and information provided." This is a general statement which makes no specific allegation of error. The bare assertion that the director somehow erred in rendering the decision, or that "each and every [one of the director's] questions has been fully answered," is not sufficient basis for a substantive appeal.

The only new statement that contains any specific information is counsel's assertion that "[c]ontrary to the Service's assertion, the following published materials do indicate title, date and author of the material." In a request for additional information, the director did state "[c]opies of published material . . . do not indicate title, date and author of the material." This notice, however, was not the denial notice, and the petitioner had already responded to the notice before the director denied the petition.

In the decision itself, the director did not indicate that the published materials lacked title, date, or author information. Rather, the director stated "[s]ome of the documents submitted were in a language other than English and did not include English Translations." Counsel does not contest this finding, having repeatedly asserted that the articles were too numerous to translate. The director's finding is a valid one because 8 C.F.R. 204.5(h)(3)(iii) requires the petitioner to submit "any necessary translation" of foreign-language media articles about the alien. The director also stated that the evidence regarding the publications "does not appear to indicate whether they are in professional/major trade publications/major media," observing another way in which the petitioner had failed to meet the requirements of the above regulation. The burden is on the petitioner to show

that a given publication qualifies as major media, and the petitioner does not meet that burden simply by providing the title of that publication.

The remainder of counsel's appellate brief is a list of exhibits submitted with the petition (and resubmitted in response to the director's request for further evidence). Rather than providing any new evidence, or material to clarify the existing evidence, the petitioner has, in effect, simply requested a second adjudication of the petition as it was originally filed. A substantive appeal must consist of more than simply a request for yet another re-evaluation of the initial submission, or the re-submission of a brief that does not differ in any meaningful way from counsel's previous submissions.

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 dismissed.