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U.S. Department of Justice

Immigration and Naturalization Service

Identification 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

[Redacted]

File:

[Redacted]

Office: Nebraska Service Center

Date: 11 MAR 2002

IN RE: Petitioner:

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:

[Redacted]

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. Wiemant, 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 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 the Form I-290B Notice of Appeal, filed on December 28, 2000, counsel indicated that a brief would be forthcoming within thirty days. Counsel has since repeatedly requested extensions in 30-day increments, stating that there have been delays in obtaining new supporting documents. To date, well over a year after the filing of the appeal, careful review of the record does not show any subsequent submission of any substantive evidence.

The regulation at 8 C.F.R. 103.3(a)(2)(vii) requires a petitioner to request, in writing, additional time to submit a brief, and to show "good cause" for the extension. The repeated claim that the petitioner has encountered unexplained delays in obtaining unidentified evidence from unnamed sources does not constitute good cause, nor does it even establish that such evidence exists. There is no regulation which allows the petitioner an open-ended or indefinite period in which to supplement the appeal, or to attempt to persuade unnamed "top experts" to provide new reference letters.

The statement on the appeal form itself reads simply "[t]he Director abused his discretion in incorrectly applying the appropriate standard for extraordinary ability under 8 CFR 204.5(h)(2)." This is a general statement which makes no specific allegation of error. For instance, the director does not explain how "the appropriate standard" was incorrectly applied. The bare assertion that the director somehow erred in rendering the decision is not sufficient basis for a substantive appeal.

Because counsel identified specifically no erroneous conclusion of law or statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is summarily dismissed.