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U.S. Department of Justice

Immigration and Naturalization Service

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



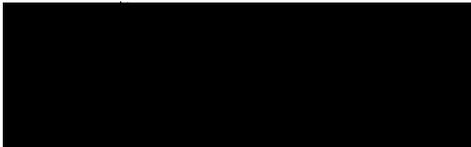
17 SEP 2002

File: EAC 01 200 55482 Office: Vermont 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:



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, Vermont 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, “[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.”

The statement on the appeal form reads simply:

Due to serious health problems, [the petitioner] was not able to respond to your [request for evidence] and provided you, instead, with evidence of his sickness. As a result his petition was denied.

He has finally recovered and respectfully requests [the Service] to grant him an extension of six months – if possible – in order to enable him to gather all documents requested by you.

8 C.F.R. 103.3(a)(2)(vii) states that an affected party seeking additional time must show good cause for an extension. In this instance, counsel has argued that the petitioner’s illness represents good cause for a six-month extension. The director originally granted the petitioner 12 weeks to submit further documentation. Pursuant to 8 C.F.R. 103.2(8), “additional time may not be granted,” and any submission during the 12-week period will be considered a request for a decision to be rendered. The director, in denying the petition, had set forth specific grounds for denial, specifying inadequacies in the petitioner’s documentation. The I-290B Notice of Appeal allows petitioners 30 days to file the appeal, and an additional 30 days to prepare supplemental materials. Thus, normal procedures allow a petitioner a total of five months to obtain and submit materials, in addition to whatever time the petitioner took to obtain the initial documentation prior to filing the petition. One month of these five elapsed between the issuance of the denial and the filing of the petitioner’s appeal, leaving four months (assuming that the petitioner, during his illness, was not only incapacitated but unable even to arrange for others to obtain evidence on his behalf). Prior illness, from which the petitioner had recovered by the time the appeal was filed, is not good cause for six additional months to secure such evidence. The request for 180 additional days to submit evidence in support of the appeal is denied. Furthermore, in the appeal submission itself counsel does not rebut or even address the specific grounds for denial. The assertion that unspecified additional evidence will one day surface is not a substantive ground for appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, as well as good cause for the six-month extension requested on appeal, the regulations mandate the summary dismissal of the appeal.

**ORDER:** The appeal is dismissed.