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U.S. Department of Homeland Security

Citizenship and Immigration Services

B2

Identifying information related to
prevent the unauthorized entry of
immigrants of potential security

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 Eye Street N.W.
Washington, D.C. 20536



File: WAC 02 225 50514 Office: CALIFORNIA SERVICE CENTER

Date: DEC 3 - 2003

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

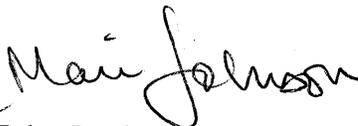
INSTRUCTIONS:

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 Citizenship and Immigration Services (CIS) 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 
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 Administrative Appeals Office 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.”

On the Form I-290B Notice of Appeal, the petitioner checked a box labeled “I am *not* submitting a separate brief or evidence.” The statement on the appeal form reads simply “[c]omments are overcritical and very harsh. It is very hard to establish any scientist in the beginning of career at the top in overall science. I believe the documents presented here were acceptable had University of California San Diego been the petitioner.”

The general allegation that the decision was “overcritical and very harsh” is a general statement that makes no specific allegation of error. We agree that “it is very hard” for a scientist to reach the top of the field at the beginning of his or her career, but the petitioner seeks a highly restrictive immigrant classification. The vast majority of scientists do not qualify for the classification; the difficulty in qualifying is by design, rather than a valid ground for appeal.

The director had observed that the alien, rather than the University of California, should be considered to be the petitioner. This was simply a technical correction to the petition form, rather than a ground of denial. The evidence must be considered on its own merits, whether the petitioner is the alien beneficiary or a prospective United States employer. The petitioner’s speculative claim that the petition would have been approved if it had been filed by the University of California is not persuasive, and it does not establish error by the director.

For the reasons discussed above, the petitioner’s observations are not sufficient grounds for a substantive appeal.

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.