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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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*BR*

FILE: EAC 03 069 50570 Office: VERMONT SERVICE CENTER Date: **AUG 26 2005**

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)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

*Robert P. Wiemann*

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 Administrative Appeals Office on appeal. The appeal will be 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 that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The applicable regulation defines the statutory term "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or comparable evidence under 8 C.F.R. § 204.5(h)(4), must depend on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

In this case, the petitioner seeks classification as an alien with extraordinary ability in the sciences as a biomedical researcher and physician. The record indicates that the petitioner is currently employed in China as Director of the Shanxi Provincial Institute of Cardiovascular and Cerebrovascular Diseases and Dean of the Institute's affiliated hospital. The petitioner is also Chief Scientist for the Shanxi De-Tong Medical/Pharmaceutical Technology Company. The petitioner submitted supporting documents including

verification of his employment, salary, awards, evidence of his publications and the citation of his articles, media reports purportedly about the petitioner, and seven letters of recommendation. The director found the record did not establish that the petitioner had achieved the requisite sustained acclaim. On appeal, counsel submits a brief, two additional certificates attesting to the petitioner's professional standing and employment and resubmits documentation of one award that was included with the petition. Counsel's claims and the additional evidence submitted on appeal do not overcome the deficiency of the petition and the appeal will be dismissed. We address counsel's claims and the evidence submitted in the following discussion of the regulatory criteria relevant to the petitioner's case.

*(i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

The petitioner submitted a letter dated May 19, 2002 from Liu Su Liang, Editor in Chief of *Golden Spring* magazine in China. Editor Liang states that the petitioner was "selected as the only awardee in the field of integration of Chinese Medicine and Western Medicine" within the designation of China's 100 Most Outstanding Doctors as "jointly selected by Ministry of Health, China, National Veteran Bureau and Golden Spring Magazine." Editor Liang explains that "[t]his is nationally highest award" which "represents the highest medical levels in China." Editor Liang does not state when the petitioner received this award, although the petitioner's curriculum vitae indicates that the award was granted in 1999.

The English translation of Editor Liang's letter is incomplete and does not comply with the regulation at 8 C.F.R. § 103.2(b)(3) which requires that all documents in a foreign language submitted as evidence to Citizenship and Immigration Services (CIS) must be "accompanied by a full English language translation which the translator has certified as complete and accurate." Although the submitted English translation of Editor Liang's letter is accompanied by a certificate from the translator attesting that the translation "is accurate to the best of [his] knowledge," the English translation leaves out significant portions of the original letter in Chinese, including the requirements and eligibility criteria for awardees. Even if properly translated, this award would not meet this criterion because it was apparently granted in 1999, at least four years before this petition was filed, and thus does not reflect the requisite sustained acclaim.

The petitioner also submitted an award certificate issued to the petitioner on January 6, 2000 by the Chinese Association of Integration of Chinese and Western Medicine, which affirms that the petitioner was "the recipient of Outstanding Contribution Award (1995-1999) for his distinguished research contribution." A letter dated June 13, 2002 from ██████████ Secretary General of the Association, explains that this award is "the highest honor" granted by the Association to scientists who have made major discoveries or inventions, whose work has made a substantial impact, who have "established leading status," and who have made contributions to the Association. Secretary Wei states that the award is issued "once every five years with only 10 awardees out of 1.5 million applicants nationwide." Even if this award is a nationally recognized honor in the petitioner's field, it was awarded in 2000, four years before the petition was filed, and does not reflect the requisite sustained acclaim.

The petitioner's curriculum vitae states that he won the "Third Prize of the Health Ministry Science and Technology" in 1991 and 1994. The record contains what appears to be an English translation of a document entitled "Background Information of Award Advancement in Science & Technology" purportedly written by ██████████ Director of Technological Research at the Fourth Medical University in China. Yet the record does not contain the original document in Chinese. In addition, the petitioner submitted no primary evidence of his

receipt of this award in either 1991 or 1994. Even if sufficiently documented, these awards would only evidence the petitioner's past renown 12 and 10 years prior to filing this petition. The petitioner also submitted a list of five other "Honors" which he purportedly received between 1992 and 1999, but the record contains no corroborative evidence of these achievements. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Accordingly, the petitioner does not meet this criterion.

*(ii) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

The petitioner's curriculum vitae states that he is a member of four medical and scientific associations, but the record only documents his membership in one of these associations, the Chinese Association of the Integration of Traditional and Western Medicine. As discussed above under the first criterion, the petitioner received an award from this association in 2000. Yet the record contains no evidence that such awards or other outstanding achievements are prerequisite to membership in the association. Accordingly, the petitioner does not meet this criterion.

*(iii) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

On page four of his initial brief, counsel listed 10 media reports about the petitioner, but the record only partially documents five newspaper articles purportedly about the petitioner. The record contains five Chinese newspaper articles, four of which appear to be feature articles about the petitioner. However, the articles were submitted with incomplete English translations that do not comply with 8 C.F.R. § 103.2(b)(3). For example, a full-page feature article about the petitioner published in the December 11, 1998 edition of *China Youth* was submitted with an English translation of the article's title and just one sentence of its text. The translation also does not identify the author of the article as required by this regulatory criterion. Without complete and certified translations of these articles, we cannot determine if they support the petitioner's eligibility under this criterion. See 8 C.F.R. § 103.2(b)(3). In addition, the record contains no documentation that the submitted articles were published in nationally circulated newspapers in China or other evidence that the newspapers are professional, major trade publications or other major media.

On appeal, counsel claims that "[w]e have submitted substantial professional trade publications and many major media [sic] featuring the petitioner's achievements, which demonstrates a widespread interest in or reliance on [sic] his work." As discussed above, the record does not support this claim. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Accordingly, the petitioner does not meet this criterion.

*(iv) Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

The petitioner submitted evidence that he was a member of the editorial boards of the “Academic Journal of the 4<sup>th</sup> Military Medical University” in 1993 and for the *Journal of Shanxi Chinese Medicine Research* from 2001 to 2003. The petitioner’s editorial position for the former journal was held ten years prior to the filing of this petition and is inconsistent with the requisite sustained acclaim. Although his editorial work for the latter journal is more recent, the petitioner submitted no evidence that the *Journal of Shanxi Chinese Medicine Research* is a prestigious medical journal that is nationally circulated in China or other evidence that the petitioner’s editorial role was consistent with national acclaim.

The record also contains a certificate issued in June 1996 stating that the petitioner “is invited to serve as a member of editorial board for Who’s Who in Contemporary Chinese Medicine, co-edited by Technology and Information Newspaper and Editorial Board of Who’s Who in Contemporary Chinese Medicine.” This certificate only evidences the petitioner’s invitation to serve, not his actual service, as an editor for this publication.

On appeal, the petitioner submits a certificate dated November 2, 1995 from the “Combined Headquarter of Supplies People’s Liberty Army” stating that he is “invited to serve as Member of Evaluation Committee for Licensing Department of High-Level Health Professionals.” Again, this document only verifies the petitioner’s invitation to evaluate – not his actual evaluation of – other health professionals.

On page four of his initial brief, counsel claims the petitioner meets this criterion through his work as Professor and Director of the Shanxi Provincial Institute of Cardiovascular and Cerebrovascular Diseases and as President of Xian De-Tong Hospital. Yet duties or activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine in the occupation itself, or in a substantial proportion of positions within that occupation. The record verifies the petitioner’s employment at the Institute and its affiliated hospital, but the petitioner submitted no evidence that his judgment of the work of students or other physicians was done in a manner significantly outside the general duties of his employment and reflective of national or international acclaim. Accordingly, the petitioner does not meet this criterion.

*(v) Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

In his initial brief, counsel claims the petitioner “has made remarkable contributions in the prevention and treatment of cardiovascular diseases” as evidenced by his awards, his inclusion in “World Famous Doctors Dictionary” and “China Trans-Century Eminent Doctors,” and his “authorship of 3 testbooks [sic] and over 32 professional publications.” The petitioner’s awards were discussed above under the first criterion. None of the submitted evidence identifies the specific accomplishments of the petitioner for which he was honored. The record contains no documentation of the petitioner’s inclusion in the “World Famous Doctors Dictionary” or “China Trans-Century Eminent Doctors.” Again, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner’s burden of proof. The unsupported assertions of counsel do not constitute evidence. *Obaigbena*, 19 I&N Dec. at 534; *Laureano*, 19 I&N Dec. 1; *Ramirez-Sanchez*, 17 I&N Dec. at 506.

Although counsel claims the petitioner has authored three books and 32 articles, the record documents the publication of just 16 articles co-authored by the petitioner and published in Chinese scientific journals between 1988 and 1994. The petitioner is the lead author of 12 of these articles. The record contains printouts from the

Institute for Scientific Information's Web of Science indicating that seven of the petitioner's articles have been cited between one and two times each. The record also contains a small book entitled "Medical Dialogue," of which the petitioner is the sole author, and an English translation of the book's title and the petitioner's name and position. None of the book's text or publication information is included in the submitted translation. Consequently, we cannot consider this book as evidence of the petitioner's eligibility under this criterion. See 8 C.F.R. § 103.2(b)(3).

As further evidence of his contributions, the petitioner submitted recommendation letters from seven scientists in his field or related specialties. While such letters provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has sustained national or international acclaim. Accordingly, we review the letters as they relate to other evidence of the petitioner's contributions. In addition, we note that the letters of [REDACTED] were submitted with what appear to be drafts with blanks for the authors to fill in. These drafts suggest that the text of the letters is not the authors' own and detracts from the probative value of these two letters.

[REDACTED] Professor and Chair of the Department of Biomedical Sciences at the College of Veterinary Medicine of Cornell University, explains that he became familiar with the petitioner's work during his recent visit to the United States. [REDACTED] states that the petitioner's "works 'Effect of antiarrhythmic drugs on electrophysiology and calcium, sodium potassium channel currents in myocardium' and his 'experimental study of myocardium ischemia and reperfusion injury with calcium channel blockers' have significantly enhanced our understanding of the mechanism of these diseases and can be considered as benchmarks in the field." The record does not identify which of the petitioner's publications might relate to the former work. The latter work is evidenced by a copy of an article entitled "The Experimental Study of Myocardial Reperfusion Injury with Calcium Channel Blocker," of which the petitioner is the lead author and that was published in 1991 in *Advances in Free Radical Biology and Medicine*. Yet the record contains no evidence that this article has been cited by other researchers or otherwise recognized as a major contribution to the petitioner's field outside of Professor Kotikoff's own estimation.

[REDACTED] Professor of Physiology at the University of Cologne in Germany, writes that from reading the petitioner's publication and observing his work in the biomedical field, he believes the petitioner "is a phenomenal physician scientist." Professor Fleischmann lists several purported accomplishments of the petitioner which are not documented by the record. First [REDACTED] states that the petitioner has authored four books and published his work in the journal *Advances in Cardiology*. As discussed above, the record includes a copy of one book authored by the petitioner, but no documentation of its publication. The petitioner's curriculum vitae lists his authorship of an article purportedly published in *Advances in Cardiology* in 1990, but the record contains no copy of the article or other evidence of its publication. Second, Professor Fleischmann states that the petitioner's work has been featured in *People's Daily* and broadcast on China Central Television (CCTV). The record contains no evidence of such media reports. Finally, Professor Fleischmann states that the petitioner has been invited to collaborate on research with Cornell University and the University of Technology in Germany. Again, the record contains no evidence of these collaborations. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165.

██████████ Professor and Director of the Department of Internal Medicine at the Fourth Medical University in Xian, China, also cites the undocumented reports about the petitioner by *People's Daily* and CCTV and his awards as evidence of the petitioner's "extraordinary achievements." Hong Yan, Professor of Cardiology and President of the College of Medicine at Xian Jiaotong University, explains that he has collaborated with the petitioner for more than ten years and also cites the petitioner's awards as evidence of his "outstanding national and international reputation." Yet neither Professor Fan nor Professor Yan identify any specific work of the petitioner that has been recognized as a major contribution to his field.

██████████ Professor of Pharmaceutical and Biomedical Sciences at the University of Georgia; C.H. Yang, Assistant Professor of Microbiology and Immunology at Emory University School of Medicine; J.P. Jin, Associate Professor of Physiology and Biophysics at Case Western University; and ██████████ Professor of Cardiovascular Diseases at the National Academy of Traditional Chinese Medicine, all state that the petitioner developed new drugs for the treatment of cardiovascular and cerebrovascular diseases. The record verifies that the petitioner is the chief scientist of the ██████████ Medical/Pharmaceutical Technology Company, but the petitioner submitted no evidence that he developed new drugs to treat cardiovascular or cerebrovascular diseases. Again, simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165. ██████████ also notes that the petitioner's research "bridges traditional Chinese medicine with modern Western medicine for which there is still a large gap to be covered." Although the petitioner received an Outstanding Contribution Award from the Chinese Association of Integration of Chinese and Western Medicine, neither the evidence concerning that award nor Professor Yang's letter identify any specific work of the petitioner which has been recognized as a major contribution in this area.

The record indicates that the petitioner has co-authored 16 articles published in Chinese scientific journals between 1988 and 1994, only seven of which have been minimally cited. The petitioner has been recognized as a leading physician in China in the field of the integration of Chinese and Western Medicine, as evidenced by his receipt of two awards presented in 1999 and 2000. The eight support letters cite accomplishments of the petitioner that are largely uncorroborated by the record. In sum, this evidence does not establish that the petitioner has made major contributions to his field in a manner consistent with the requisite sustained acclaim. Consequently, he does not meet this criterion.

*(vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

Frequent publication of research findings is inherent to success as an established scientist and does not necessarily indicate the sustained acclaim requisite to classification as an alien with extraordinary ability. Evidence of publications must be accompanied by documentation of consistent citation by independent experts or other proof that the alien's publications have had a significant impact in his field. In this case, as discussed above under the fifth criterion, the record documents the petitioner's co-authorship of 16 articles published in Chinese scientific journals between 1988 and 1994. The petitioner is the lead author of 12 of these articles. Seven of the petitioner's articles have been cited between one and two times each, although the record does not identify the citing articles or otherwise confirm that they do not include subsequent publications of the petitioner himself. The petitioner's most recent article was published in 1994, a decade prior to the filing of this petition. This publication and citation record does not reflect sustained acclaim and the petitioner consequently does not meet this criterion.

*(viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.*

In his initial brief, counsel claims the petitioner meets this criterion through his role as Director for the Association of the Integration of Chinese and Western Medicine. Although the petitioner submitted evidence of his receipt of an award from this association, the record contains no evidence that he has served as the association's director. Counsel also claims that this association is the "only official, nationwide association of its kind" in China and is "highly reputable in its efforts and achievement." Again, the record contains no evidence to corroborate these assertions. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Obaigbena*, 19 I&N Dec. at 534; *Laureano*, 19 I&N Dec. 1; *Ramirez-Sanchez*, 17 I&N Dec. at 506.

The record also does not establish that the petitioner meets this criterion through his other positions. A "Letter of Employment" from ██████████ Chairman of the Committee of Academic Evaluation of the Shanxi Provincial Institute of Cardiovascular and Cerebrovascular Diseases, affirms that on January 10, 2001 the petitioner was appointed as Director of the Institute and Dean of its affiliated hospital for a five-year term. On appeal, the petitioner submits a copy of this certificate accompanied by a second, incomplete English translation that identifies the Institute as that of "Heart and Vascular Diseases" and includes an inaccurate transliteration of the Chairman's name. While the petitioner may perform a leading and critical role for the Institute and its hospital, the record contains no evidence that these establishments have distinguished reputations in China.

The petitioner also submitted a "Certificate of Employment" signed by ██████████ Chairman of the Shanxi De-Tong Medical/Pharmaceutical Technology Company which is dated January 19, 2001 and affirms that the petitioner was hired as the company's chief scientist for a term of five years. The certificate does not describe the petitioner's responsibilities or accomplishments in his role as chief scientist and the record is devoid of any evidence that this company has a distinguished reputation in China. Accordingly, the petitioner does not meet this criterion.

*(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The certificate from the Shanxi De-Tong Medical/Pharmaceutical Technology Company states that the petitioner receives an annual salary of one million *Ren Min Bi* (RMB). The record also contains a letter from ██████████ Chairman of the Shanxi Provincial Pharmaceutical Association, who states, "Researchers in our field are being paid at different rates. Ordinary Ph.D. holders received \$60,000 RMB/yr. Scientists with Ph.D. degree and are in charge of a research program usually earn \$100,000 RMB/year. ██████████ is [sic] making 1,000,000 RMB/yr, which is the very highest nationwide that I know." Yet the record contains no documentation of the petitioner's income from the company over the course of his employment from 2001 through December 2003 when his petition was filed. Accordingly, the petitioner does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his or her field. The evidence in this case indicates that the petitioner is an accomplished biomedical researcher and physician. However, the record does not establish that the petitioner has achieved sustained national or international acclaim as a scientist

placing him at the very top of his field. He is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and his petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

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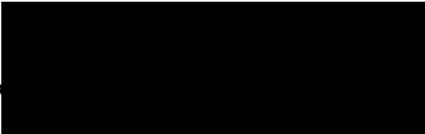
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FILE: EAC 03 139 52257 Office: VERMONT SERVICE CENTER Date: AUG 26 2005

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)

ON BEHALF OF PETITIONER:



**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office 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.

*Mari Johnson*

& 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 Administrative Appeals Office (AAO) on appeal. The appeal will be 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 sciences. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

On Form I-290B counsel stated, "The Government erred as a matter of fact and law" and indicated that he would submit a brief and/or additional evidence to the AAO within 30 days. Counsel dated the appeal December 17, 2004. As of this date, over eight months later, the AAO has received nothing further from counsel.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Counsel here has not specifically identified any reason for the appeal and has not provided any additional evidence. The appeal must therefore be summarily dismissed.

**ORDER:** The appeal is dismissed.