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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE: [Redacted]  
SRC 00 205 52391

Office: TEXAS SERVICE CENTER Date: JUL 27 2007

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.

*Maura DeAdm*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was initially approved by the Director, Texas Service Center. On further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the immigrant visa petition, and the reasons therefore, and ultimately revoked the approval of the petition on May 24, 2006. The matter is now before the Administrative Appeals Office (AAO) 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 athletics. 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.

Under item 3 of his Form I-290B, Notice of Appeal to the AAO, the petitioner states:

I had no time, nor assistance from counsel to prepare a more accurate response. My attorney was unable to give me a copy of the original application filed, thus my inability to contact many of my colleagues and sports related contacts. I request more time to reconstruct the evidence that proves I am an exceptional ability athlete.

Contrary to his preceding statement, under item 2 of the Form I-290B, the petitioner checked the box indicating that he was “not submitting a separate brief or evidence.”

Regarding the petitioner’s request for additional time to submit further evidence (as indicated under item 3 of the Form I-290B), there is no regulation that allows the petitioner an open-ended or indefinite period in which to supplement an appeal once it has been filed. The regulation at 8 C.F.R. § 103.3(a)(2)(vii) states “[t]he affected party may make a written request to the [AAO] for additional time to submit a brief. The [AAO] may, for good cause shown, allow the affected party additional time to submit one.” The petitioner’s appellate submission did not specify when further evidence would be forthcoming, nor did it indicate that he intended to submit a brief challenging the director’s findings. The regulations do not state or imply that the petitioner may freely supplement the record up until the date of appellate adjudication.

In regard to the petitioner’s claim that counsel failed to provide him with “a copy of the original application filed,” any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel’s ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff’d*, 857 F.2d 10 (1st Cir. 1988).

The petitioner’s appellate submission was unaccompanied by arguments or evidence addressing the pertinent regulatory criteria at 8 C.F.R. § 204.5(h)(3). The appeal was filed on June 7, 2006. As of this date, more than thirteen months later, the AAO has received nothing further. 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.

The petitioner has not specifically addressed the reasons stated for revocation of the approval of the petition and has not provided any additional evidence. The appeal must therefore be summarily dismissed.

**ORDER:** The appeal is dismissed.