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FILE: EAC 03 014 50453 Office: VERMONT SERVICE CENTER Date: **NOV 28 2005**

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

ON BEHALF OF PETITIONER:

[REDACTED]

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.

*Maiphuson*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Vermont Service Center Director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a dog breeder and kennel. The beneficiary is a dog handler. The petitioner seeks O-1 classification of the beneficiary, as an alien with extraordinary ability under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), in order to employ him in the United States as a dog handler for a period of three years.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary is an alien of extraordinary ability and failed to submit a consultation as required by the regulation at 8 C.F.R. § 214.2(o)(2)(ii)(D).

On appeal, counsel for the petitioner submits the reason for the appeal:

Unique case. Appellant is the owner of one of the top dogs in the world. Wants to compete in American circuit. The dog won almost all European titles and some American titles already. Needs to finish the circuit. The dog will only work with owner. Therefore, dog's extraordinary ability vicariously applies to appellant.

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have arisen to the very top of the field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 214.2(o)(3)(iii).

The director issued a request for additional evidence to the petitioner on February 21, 2003. The director specifically requested a written advisory opinion from an appropriate association or entity with expertise in the beneficiary's area of ability and evidence to establish that the alien is recognized as having a demonstrated record of extraordinary ability or achievement in his field.

In response to the request for additional evidence, counsel for the petitioner wrote a letter to the director in which he asserts that the beneficiary and the dog are inseparable, the achievements of the dog should be imputed to its owner (the beneficiary) and are equivalent to a written opinion." Counsel further wrote that "the beneficiary has already provided a written opinion as part of the application." The petitioner did not any other evidence in response to the request for evidence. 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).

The record does not contain a consultation; hence, the director denied the petition. The dog's achievements do not satisfy this requirement. The exact requirements of a consultation are set forth in the regulation at 8 C.F.R. § 214.2(o)(5)(i)(A), as follows:

Consultation with an appropriate U.S. peer group (which could include a person or persons with expertise in the field), labor and/or management organization regarding the nature of the work to be done and the alien's qualifications is mandatory before a petition for an O-1 or O-2 classification can be approved.

The petitioner was put on notice of required evidence and given a reasonable opportunity to provide it for the record before the visa petition was adjudicated. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

On appeal, the petitioner fails to address specifically the grounds for denial set forth in the decision of the director.

The regulation at 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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

**ORDER:** The appeal is dismissed.