identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

B5

[redacted]

DATE: AUG 0 7 2012 OFFICE: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a physician specializing in pediatric cardiology. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

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, counsel checked a box reading "My brief and/or additional evidence is attached." Counsel did not indicate that any future supplement would follow. Therefore, the initial appellate submission constitutes the entire appeal. The petitioner submitted no exhibits on appeal except for a copy of the denial notice.

The Form I-290B includes a space for the petitioner to "[p]rovide a statement explaining any erroneous conclusion of law or fact in the decision being appealed." In a one-sentence statement, counsel states: "The record reflects through [the petitioner's] leading roles at prominent medical institutions along with his history of original and pioneering research that [the petitioner] has demonstrated that his work has substantial intrinsic merit, is national in scope, and that the national interest would be adversely affected if he were required to obtain labor certification." Counsel does not elaborate as to the nature of the claimed "leading roles" and "pioneering research." The director, in the denial notice, had acknowledged the petitioner's involvement in research, but found that "the primary focus of the petitioner's efforts has been the practice of medicine not the conducting of research," and that, therefore, the petitioner's overall impact has been limited. Counsel cannot rebut the director's findings simply by repeating the vague assertion that the petitioner's work has been important.

In an accompanying statement, counsel states that the petitioner's "initial submission . . . [included] substantial evidence demonstrating that he has distinguished himself from his peers through his clinical and research work. . . . We respectfully assert that clear evidence was submitted that a waiver of labor certification is in the national interest." Counsel, however, does not explain how the director failed to take the petitioner's previous evidence into consideration. Counsel asserts that the petitioner had previously submitted witness letters and shown "citation of his original work." The director acknowledged the witness letters and quoted some of them. With respect to "citation of his original work," the AAO can find no evidence, and no prior mention, of such citation in the record.

Counsel asserts generally that the petitioner "has been indispensable" to the department where he worked at the time. Counsel does not, however, allege any specific factual or legal errors or other

deficiencies in the director's decision. Counsel merely asserts that, given the petitioner's (unspecified) achievements, the director should have approved the petition.

The director had already addressed the petitioner's previous claims in detail. To repeat those claims on appeal, in the most general of terms and with no rebuttal of the director's specific findings, is not sufficient grounds for appeal.

Because counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the AAO must summarily dismiss the appeal.

ORDER: The appeal is dismissed.