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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

PUBLIC COPY



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DATE: **JAN 10 2012** Office: CALIFORNIA SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

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:



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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must 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, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner filed the nonimmigrant visa petition seeking classification of the beneficiary under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), as an alien with extraordinary ability in the sciences. The petitioner seeks to employ the beneficiary in the position of Alternative/Complementary Medicine Practitioner and Meditation Coach for a period of three years.

The director denied the petition on October 4, 2010, concluding that the petitioner failed to establish that the beneficiary has achieved sustained national or international acclaim as an alternative medicine practitioner and meditation coach or that she is among the small percentage at the very top of her field. The director determined that the evidence submitted did not meet the applicable evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(A) or (B). In addition, the director determined that the beneficiary, the majority owner of the petitioning company, effectively sought to self-petition, and that she is prohibited from doing so pursuant to the regulation at 8 C.F.R. § 214.2(o)(2)(i).

The petitioner subsequently filed an appeal on November 2, 2010. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. In a short statement on the Form I-290B, Notice of Appeal or Motion, counsel for the petitioner asserts that the petitioner met its burden of proof with respect to establishing the beneficiary's extraordinary ability in her field. Counsel further states that "the director erred in asserting as a basis for its denial that [the petitioner] and Beneficiary were not separate and distinct legal entities." Counsel indicated on the Form I-290B that he would submit a brief and/or additional evidence to the AAO within 30 days. The AAO has received no brief or additional evidence and the record will be considered complete.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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.

Counsel's brief statement on the Form I-290B does not adequately identify an erroneous conclusion of law or statement of fact as a basis for the appeal. Counsel asserts that the director "erred in asserting as a basis for its denial that [the petitioner] and Beneficiary were not separate and distinct legal entities." The AAO has reviewed the director's decision and found that the director made no such assertion. As noted above, counsel indicated that he would submit a brief and/or additional evidence to the AAO. This evidence was due in December 2010 and has yet to be provided.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in support of the appeal, the petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.