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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B2

FILE:

Office: TEXAS SERVICE CENTER

Date: **DEC 06 2010**

IN RE:

Petitioner:

Beneficiary:

APPLICATION:

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:

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. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. 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
Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and 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. The director determined that the petitioner had not established extraordinary ability through extensive documentation and sustained national or international acclaim.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement, specifically a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On May 28, 2009, the petitioner submitted a Form I-140, Immigrant Petition for Alien Worker, a statement and additional evidence. On July 23, 2009, the director issued a notice of intent to deny (NOID). On August 21, 2009, the petitioner filed a response to the NOID. The director denied the petition on August 27, 2009 and the petitioner submitted a timely Form I-290B, Notice of Appeal or Motion on September 21, 2009. The director's decision contained a thorough evaluation and discussion of evidence under all the criteria. In his denial, the director addressed the petitioner's documentary evidence as it related to five of the ten criteria pursuant to the regulation at 8 C.F.R. § 204.5(h)(3). Specifically, the director discussed the petitioner's documentary evidence relating to the lesser awards criterion at 8 C.F.R. § 204.5(h)(3)(i), the membership criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(ii), the published material about the alien criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iii), the judging criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iv), and the original contribution criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(v).

On appeal, counsel fails to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. In his brief on appeal, counsel generally recites the facts and procedural history of the case but offers no specific argument or detail on appeal. Counsel stated that the director abused his discretion by denying the petitioner's petition and "ignored or misevaluated" much of the evidence submitted. Although counsel vaguely referred to evidence of the petitioner's prizes, published articles and evidence of judging, he failed to specifically address any of the director's determinations or to provide any specific argument detailing the director's alleged errors. The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980). Counsel provided no further evidence on appeal.

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.

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 this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.