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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

[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: DEC 08 2010

IN RE: Petitioner: [redacted]
Beneficiary:

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:

[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 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 employment-based immigrant visa petition was denied by the Director, Texas Service Center, on February 3, 2009, 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 as an art director. The director determined that the petitioner had not established the requisite extraordinary ability and failed to submit extensive documentation of his sustained national or international acclaim. 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 awards criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(i), the original contributions criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(v), the artistic exhibitions or showcases criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(vii), the leading or critical role criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii), and the high salary criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(ix).

On appeal, rather than challenging any of the director's specific findings, counsel submits a letter in which he references an additional letter that has been submitted to supplement the record. Counsel states:

> As evidence that [the petitioner's] achievements have been recognized in the field of expertise, we submit enclosed an expert opinion letter from [redacted] who because of his professional background in higher education, serving at the professional level in Studio and Graphic Arts, and art-making experience is qualified as a Recognized Authority in Art and Art Education and therefore has the authority to determine whether or not an individual possesses extraordinary ability.
>
> Based on his evaluation of [the petitioner's] credentials, [redacted] finds that [the petitioner] is a preeminent Mexican Advertising Designer and Animator whose exceptional artistic and design abilities have led to recognition of him by international experts as a preeminent international designer and animator. Based on [the petitioner's] achievements and qualifications [redacted] has determined that [the petitioner] is a professional of national and international achievement whose art is making major and significant contributions to the field of Advertising Design/Animation, and therefore is an artist of extraordinary ability. [The petitioner's] accomplishments attest to his original contribution of major significance in his field and sets a standard which many professionals in the field of Advertising Design/Animation aspire in their careers.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that "[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." In this case, counsel has not identified as a proper basis for the appeal an erroneous conclusion of law or a statement of fact in the director's decision. Instead, counsel submits a single letter from [redacted] who was asked by counsel to review selected documentary evidence and provide his professional opinion. It does not appear that [redacted] was aware of the petitioner prior to being contacted by counsel. [redacted] determination that the petitioner is an alien of extraordinary ability is not based on his prior recognition of the petitioner but merely on the evaluation of the documents given to him by counsel. Again, the letter from [redacted] offers no explanation that demonstrates error on the part of the director based upon the record that was before him. Moreover, in counsel's brief, he only mentions the petitioner's eligibility as it relates to the original contributions criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(v). Counsel failed to even mention on appeal the other four criteria addressed by the director in his decision. Accordingly, we deem those issues to be abandoned. *See Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir.2005). Even if counsel were to prevail on the single issue raised on appeal, and we do not imply that he would, such a conclusion would not overcome the director's ultimate conclusion that the petitioner does not meet any of criteria at 8 C.F.R. § 204.5(h)(3), of which an alien must meet at least three.

As stated in the regulation at 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. As counsel does not contest the director's findings and offers no substantive basis for the filing of the appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is dismissed.