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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**

B2



DATE: **APR 20 2012**

Office: NEBRASKA SERVICE CENTER



IN RE:

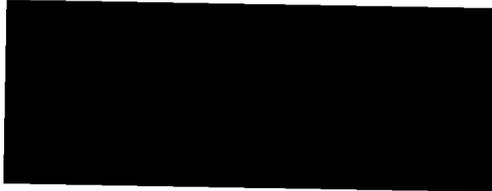
Petitioner:



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:



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, Nebraska 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 in the arts. The director determined that the petitioner had not established the requisite extraordinary ability through extensive documentation and sustained national or international acclaim. The director s decision sufficiently discussed the deficiencies in the petitioner s documentary evidence as it related to the categories of evidence at 8 C.F.R. ^ 204.5(h)(3) and found that the petitioner had failed to establish sustained national or international acclaim and that he was among that small percentage at the very top of his field of endeavor. 8 C.F.R. ^ 204.5(h)(2).

On appeal, counsel states:

The Service denied the I-140 petition based on the fact that the petitioner does not meet three of the ten qualifying criteria under INA Section 203(b)(1)(A). The Service acknowledges that the petitioner has met two of them. In its decision, the Service states that the petitioner made no response to USCIS request for evidence. However, this office has never received such request from the Service. Therefore, the petitioner appeals the Service s decision both on its merits and on the fact that he has never got the notice. Petitioner therefore requests that a copy of the original request for evidence be re-mailed to his representative s address. Petitioner requests additional time to submit supplemental brief and additional evidence in this matter.

Counsel claims that her office did not receive the director s request for evidence (RFE). However, U.S. Citizenship and Immigration Services records confirm that the director issued the RFE on August 19, 2010.¹ An uncorroborated, self-serving denial of receipt is weak evidence, even if sworn. *Joshi v. Ashcroft*, 389 F.3d 732, 735-736 (7th Cir. 2004). As such, absent sufficient, objective evidence to support the counsel s claim that she did not receive a copy of the director s RFE, the AAO finds that the director s RFE was received as it was properly served in accordance with 8 C.F.R. ^ 103.5a. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1,3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Regardless, even if the petitioner were to establish non-receipt of the director s RFE, which he has not, the director s December 14, 2010 decision denying the petition specifically informed the petitioner of the deficiencies in the evidence relating to the regulatory criteria at 8 C.F.R. ^ 204.5(h)(3). As the director s denial notice properly informed the petitioner of the specific deficiencies in the record, it is not clear what remedy would be appropriate beyond the appeal process itself. This process allows the petitioner to submit a brief and/or evidence in support of

¹ A copy of the director s RFE is attached to this decision.

the appeal contesting the director's grounds for denial. See 8 C.F.R. §§ 103.3(a)(2)(vi) and (vii). The petitioner's appellate submission, however, does not specifically challenge any of the director's findings or point to specific errors in the director's analyses of the documentary evidence submitted for the categories of evidence at 8 C.F.R. § 204.5(h)(3). Further, counsel does not explain how the documentary evidence submitted by the petitioner supports a finding of eligibility. 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 matter, the petitioner 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. The petitioner's appellate submission offers only a brief statement asserting that the petitioner qualifies as an alien of extraordinary ability and does not specify where the alleged error on the part of the director occurred. Moreover, the appellate submission was unaccompanied by arguments or evidence addressing the regulatory criteria at 8 C.F.R. § 204.5(h)(3) which the petitioner claims to meet.

On the Form I-290B, Notice of Appeal or Motion, in Part 2, Information About the Appeal or Motion, counsel indicated that a brief and/or evidence would be submitted to the AAO within 30 days. The appeal was filed on December 30, 2010. As of this date, more than fifteen months later, the AAO has received nothing further.

As stated in 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. The petitioner has not specifically addressed the reasons stated for denial and has not provided any additional evidence pertaining to his eligibility for the classification sought. The appeal must therefore be summarily dismissed.

ORDER: The appeal is dismissed.