

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

B2

[REDACTED]

DATE: AUG 22 2012

Office: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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 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 employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, on September 17, 2011, 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 athletics as a coach, more specifically a cycling coach. Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate “sustained national or international acclaim” and present “extensive documentation” of his or her 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 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.

In the director’s decision, the director determined that the petitioner failed to establish eligibility under a single regulatory category of evidence. The director then conducted a final merits determination in accordance with *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) and determined that the petitioner “ha[s] not reached a level of expertise indicating that you are one of that small percentage who has risen to the top of your field of endeavor,” 8 C.F.R. § 204.5(h)(2) and that the evidence “does not establish sustained acclaim.” *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3).

On appeal, counsel repeated sections of the director’s decision and claimed in part 3 on Form I-290B, Notice of Appeal or Motion:

The Petitioner will demonstrate that his coaching and his recognition by the appropriate experts are present. Further he will prove that he played a leading or critical role for an organization or establishment of distinguished reputation. This will be shown by the preponderance of evidence that he is qualified for the benefit sought consistent with the Matter of E-M-, 20 I & N. Dec. 77 (BIA 1989). The Petitioner respectfully requests that the Service reverse the denial of the I-140 petition.

In the accompanying letter, counsel generally repeats previous claims, without explaining why the AAO should find those claims any more persuasive than the director did. Counsel did not offer any additional arguments identifying any errors of law or fact in the director’s analysis. *See Desravines v. United States Attorney Gen.*, No. 08-14861, 343 F. App’x 433, 435 (11th Cir. 2009) (finding that issues not briefed on appeal are deemed abandoned). Counsel 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). The AAO notes that the petitioner submitted three “Professional Certificates & Recommendations” without certified translations on appeal. As the translations did not comply with the terms of 8 C.F.R. § 103.2(b)(3), they cannot be considered here.

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, counsel has not identified an erroneous conclusion of law or a statement of fact in the director’s decision as a proper basis for the appeal. Counsel’s appellate submission offers only a general statement asserting that the petitioner qualifies as an alien of extraordinary ability. Counsel offers no argument that demonstrates error on the part of the director based upon the record that was before him and the additional evidence is of no evidentiary value.

As counsel did not contest any of the specific findings of the director 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.