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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: **JAN 13 2012** OFFICE: TEXAS SERVICE CENTER

FILE:

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, Texas Service Center, on July 21, 2010, 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 a physician. In the director's decision, he determined that the petitioner failed to meet the awards criterion pursuant to the regulation 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 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), the original contributions criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(v), the scholarly articles criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(vi), 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 C.F.R. § 204.5(h)(3)(ix).

On appeal, rather than challenging any of the director's specific findings, counsel merely claims that the documentary evidence meets the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Specifically, counsel asserts:

We respectfully assert that clear evidence was submitted showing that in particular [the petitioner] has made great contributions to the field through both his research work as well as clinical abilities, both well attested to by both his peers with whom he has worked as well as independent testimonials from prominent members of the field at prominent institutions, and citation of his original work by later researchers. In addition [the petitioner] is a member of most [sic] of the most prominent medical societies in the country. Generally, these societies do not require outstanding achievements on the part of their members, but this is the norm with regard to American medical societies as we respectfully assert. In addition, [the petitioner's] record of publication is very impressive as is his record of presentation at major conferences. He has also sustained citations in prominent journals. Furthermore he has judged the work of even senior peers on several levels. Also there are testimonials submitted showing that he has been indispensable member of his current department and institution.

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 made general assertions without specifically identifying any erroneous conclusion of law or statement of fact for the appeal. Again, counsel offers no argument that demonstrates error on the part of the director based upon the record that was before him.

It is noted that counsel does not even mention, let alone contest, the decision of the director regarding the awards criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(i), the published material criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iii), and the high salary criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(ix). The AAO, therefore, considers these issues to be abandoned. *See Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO).

The AAO further notes that the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires “[d]ocumentation of the alien’s membership in associations in the field for which is classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.” Although counsel asserts that it is normal for medical societies in the United States to not require outstanding achievements of its members, counsel failed to submit any documentary evidence to support her assertions. 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). Regardless, as the regulation at 8 C.F.R. § 204.5(h)(3)(ii) does require “outstanding achievements of their members,” the petitioner’s memberships in associations that do not require outstanding achievements fail to establish eligibility for the membership criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(ii).

In addition, the AAO notes that while counsel claimed that the petitioner’s record of publication is impressive, the director discussed the scholarly articles criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(vi). Specifically, the director stated that although the petitioner indicated on his résumé that he published 11 articles, the petitioner submitted only two articles and failed to submit any evidence that they were published in professional or major trade publications or other major media as required by the regulation. Again, counsel provided no argument regarding the director’s specific findings for this criterion.

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 offers no substantive basis for the filing of the appeal for any of the criteria, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is dismissed.