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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

[REDACTED]

Bz

DATE: JUL 25 2012 OFFICE: TEXAS 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, Texas Service Center, on September 27, 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. 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 thoroughly discussed the documentary evidence submitted by the petitioner and determined that the petitioner failed to establish eligibility for 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 scholarly articles criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(vi), and the leading or critical role criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii). Furthermore, the director determined that the petitioner established eligibility for the judging criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iv). Moreover, the director conducted a final merits determination in accordance with *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) and determined that the petitioner failed to demonstrate a (1) “level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor,” 8 C.F.R. § 204.5(h)(2); and (2) “that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3).

On appeal, counsel claims that the petitioner meets the original contributions criterion and the leading or critical role criterion. Specifically, counsel claims:

We respectfully submit that [the petitioner] has made original contributions of major significance in the field. Specifically, [the petitioner] is heralded as an extraordinary clinician in his field. His expertise is such that he has been able to provide guidance to other experts on the management of a variety of disorders treated by hospital physicians and Surgeons. Furthermore, he has been invited to lecture before prominent settings in his field. Experts from across the nation have attested to the significance of [the petitioner’s] contributions as a clinician and the significance of his presented materials.

We submit that [the petitioner] has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. As a leading Surgeon, [the petitioner] has played critical roles in each and every hospital in which he has worked, in his clinical practice, elite research and educating fellow doctors with his own elite skills.

Specifically, we refer to support letters on the record from Howard University Hospital describing [the petitioner's] role within the Department of Surgery and the leading and critical roles he performed providing patient care and teaching, as well as his work as a Research Scientist. He has earned leading roles with prominent institutions based on his demonstrated record of accomplishment and sustained national reputation as an expert in his field of medicine.

Although counsel briefly challenges two of the director's findings, counsel makes general assertions without explaining how the conclusions of the director were incorrect as a matter of law or statement of fact. A passing reference without substantive arguments is insufficient to raise that ground on appeal. *Desravines v. U.S. Atty. Gen.*, 343 Fed.Appx. 433, 435 (11th Cir. 2009). Furthermore, counsel failed to identify the petitioner's original contributions, let alone original contributions of major significance in the field. Rather, counsel made broad and brief assertions regarding the petitioner's guidance and lectures without explaining how they have been of major significance in the field.

In addition, while counsel claimed that the petitioner's recommendation letters reflected his leading or critical role at Howard University Hospital, the director specifically reviewed the letters and determined that they failed to establish the petitioner's eligibility for the leading or critical role criterion. On appeal, counsel failed to demonstrate how the director's decision was incorrect as a matter of law or statement of fact. Moreover, even if on appeal counsel established the petitioner's leading or critical role for Howard University Hospital, which she clearly has not, section 203(b)(1)(A)(i) of the Act requires the submission of extensive evidence. Consistent with that statutory requirement, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires a leading or critical role with more than one organization or establishment. Significantly, not all of the criteria at 8 C.F.R. § 204.5(h)(3) are worded in the plural. Specifically, the regulations at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix) only require service on a single judging panel or a single high salary. When a regulatory criterion wishes to include the singular within the plural, it expressly does so as when it states at 8 C.F.R. § 204.5(k)(3)(ii)(B) that evidence of experience must be in the form of "letter(s)." Thus, the AAO can infer that the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation. *See Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at 12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials). In the case here, counsel only claims the petitioner's eligibility for the leading or critical role criterion based on a single organization.

In addition, counsel does not contest the findings of the director or offer any additional documentary evidence regarding the awards criterion, the scholarly articles criterion, and the director's final merits determination. 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).

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 made general assertions 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.