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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

[REDACTED]

DATE: **MAR 29 2012** Office: TEXAS SERVICE CENTER [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 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 initially approved by the Director, Texas Service Center. Subsequently, the director issued a notice of intent to revoke (NOIR) the approval of the petition. In a Notice of Revocation (NOR), the director ultimately revoked the approval of the petition. The matter 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 sciences. 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 NOIR and NOR 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).

Section 205 of the Act, 8 U.S.C. § 1155, states, in pertinent part, that the Secretary of Homeland Security "may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In *Matter of Estime*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and un rebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

*Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988) (citing *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987)).

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the revocation of the approval of an immigrant petition. *Id.* The approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. *Id.* at 589. The beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Id.*

On appeal, counsel states:

We submit that the Service erred in unilaterally imposing novel substantive or evidentiary requirements beyond those set forth at 8 C.F.R. section 204.5 in opposition to *Kazarian v. USCIS*, 596 F.3d 1115, C.A.9 (Cal), March 4, 2010 (No 07-56774) and the Interim Policy

Memorandum dated August 18, 2010 regarding Evaluation of Evidentiary Criteria in Certain Form I-140 Petitions (AFM Update AD 10-41). The record demonstrates that the applicant has met at least three of the enumerated criteria. Furthermore, in *Buletini v. INS*, 860 F. Supp at 1233, the court stated “Once it is established that the alien’s evidence is sufficient to meet three of the criteria . . . , the alien must be deemed to have extraordinary ability unless the INS sets forth specific and substantiated reasons for its finding that the alien, despite having satisfied the criteria, does not meet the extraordinary ability standard.” We submit that by virtue of meeting at least 3 of the enumerated criteria, [the petitioner] qualifies for the instant classification.

Counsel’s comments do 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 general statement asserting that the petitioner meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3) 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.

Counsel indicated that the petitioner would not be submitting a supplemental brief and/or evidence in support of his appeal. 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.