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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:

Office: TEXAS SERVICE CENTER

FILE:

**SEP 11 2012**

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 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 and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be 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. The petitioner initially submitted 13 documents with no explanation as to how they relate to the evidentiary criteria for the classification sought. See 8 C.F.R. § 204.5(h)(3)(i) – (x). On March 21, 2011, the director issued a request for additional evidence (RFE), listing all of the evidentiary requirements. The petitioner responded with more documents, once again failing to explain how these documents relate to the evidentiary requirements for the classification sought. The director determined that the petitioner had not established the requisite extraordinary ability and failed to submit extensive documentation of her sustained national or international acclaim.

On appeal, the petitioner fails to specifically address the stated reasons within the denial and to identify any erroneous conclusion of law or statement of fact on the part of the director. Instead, she merely lists, for the first time, the evidence under each criterion that she asserts is applicable. She submits new evidence that the director either specifically requested in the RFE, some of which postdates the filing of the petition. The petitioner must establish eligibility as of the date of filing. See 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). The appeal is the first instance that the petitioner provided any guidance to USCIS as to which criteria each form of evidence applies.

The director first acknowledged that the petitioner was the recipient of several prizes or awards, but noted the lack of evidence, such as media coverage of the accolades. On appeal, the petitioner merely reiterates the awards, implying that the awards themselves demonstrate their recognition despite the director's explanation in the RFE as to what types of evidence might show recognition. Simply listing evidence the director found insufficient without specifying the director's error in reaching that conclusion is not a substantive assertion.

The director also concluded that the record lacked any evidence that the petitioner was a member of a qualifying association pursuant to 8 C.F.R. § 204.5(h)(3)(ii). On appeal, the petitioner for the first time specifies what evidence she previously submitted that she would like to be considered under this criterion without asserting any error on the director's part. Some of the evidence the petitioner discusses on appeal makes no reference to a "membership" and the remaining evidence makes no mention of the requirements for membership, a fundamental factor under 8 C.F.R. § 204.5(h)(3)(ii).

Regarding the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii), the director concluded that no evidence was submitted relating to this criterion. On appeal, the petitioner provides new evidence of published material. The purpose of the RFE is to elicit further information that clarifies whether the petitioner has established eligibility for the benefit sought as of the filing date of the petition. See 8 C.F.R. §§ 103.2(b)(8) and (12). The petitioner's failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14). As in the

present matter, where the director put the petitioner on notice of a deficiency in the evidence and gave the petitioner an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the director to consider the submitted evidence, she should have submitted the documents in response to the director's RFE. *Id.* Under the circumstances, the AAO will not consider the sufficiency of the evidence submitted on appeal.

The director concluded that the record lacked any evidence applicable to the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). On appeal, the petitioner submits new letters that reference teaching (not judging) duties after the date of filing. As stated above, this evidence cannot establish her eligibility as of the date of filing as required. *See* 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

Finally, while the director considered the reference letters under the contributions criterion at 8 C.F.R. § 204.5(h)(3)(v) and explained why they did not demonstrate that her contributions were of major significance, the petitioner merely lists those letters on appeal without identifying any error in the director's analysis of those letters.

As stated in the regulation at 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the concerned party fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. *Cf. Idy v. Holder*, No. 11-1078, 2012 WL 975567 (1st Cir. Mar. 23, 2012) (where an alien fails to raise any legal issue regarding the Board of Immigration Appeals denial of an inadmissibility waiver, the Court of Appeals is deprived of jurisdiction). *See also Desravines v. United States Attorney General*, No. 08-14861, 343 F. App'x 433, 435 (11th Cir. 2009) (finding that issues not briefed on appeal are deemed abandoned); *Tedder v. F.M.C. Corp.*, 590 F.2d 115, 117 (5th Cir. 1979) (deeming abandoned an issue raised in the statement of issues but not anywhere else in the brief). In this instance, the petitioner has not sufficiently identified a basis for the appeal. The petitioner does not contest the director's specific findings and offers no substantive basis for the filing of the appeal. As the petitioner failed to challenge the director's analysis beyond merely asserting that the director reached the wrong conclusion, the appeal must be summarily dismissed.

**ORDER:** The appeal is dismissed.