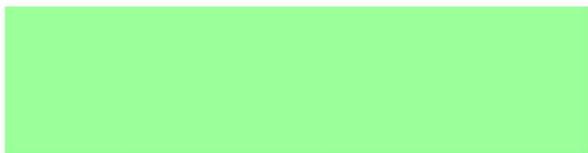


(b)(6)

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

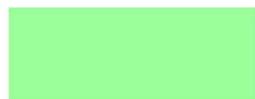


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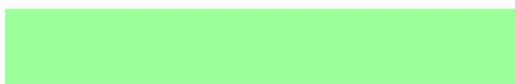
FILE:



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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

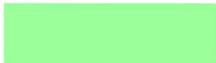
DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, on February 18, 2013, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks classification of the beneficiary 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 confined space entry technician. Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the beneficiary's "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 the beneficiary's eligibility under a single regulatory category of evidence.

On appeal, the petitioner praises the beneficiary for "his willingness, abilities and high spirit of helping others." However, the petitioner does 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). The petitioner fails to 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). On appeal, the petitioner submitted information regarding trainings by the beneficiary and other employees. The trainings attended by the beneficiary occurred after the date of filing. Eligibility must be established at the time of filing. Therefore, these items will not be considered as evidence to establish the beneficiary's eligibility. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998). That decision further provides, citing *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981), that U.S. Citizenship and Immigration Services (USCIS) cannot "consider facts that come into being only subsequent to the filing of a petition." *Id.* at 176. Furthermore, trainings completed by other individuals are of no probative value, and cannot be considered here. Regardless, even if the AAO were to consider the evidence submitted on appeal, the petitioner would still fail to establish that the beneficiary meets even one of the regulatory criteria pursuant to the regulation at 8 C.F.R. § 204.5(h)(3).

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



NON-PRECEDENT DECISION

Page 3

erroneous conclusion of law or statement of fact for the appeal.” In this matter, the petitioner 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. The petitioner’s appellate submission offers only a general statement regarding the beneficiary, but fails to even assert that the beneficiary qualifies as an alien of extraordinary ability. The petitioner 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 the petitioner 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.