



U.S. Citizenship
and Immigration
Services

(b)(6)

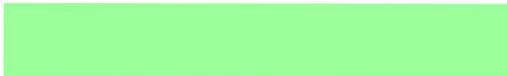


DATE: **OCT 01 2013**

OFFICE: TEXAS SERVICE CENTER

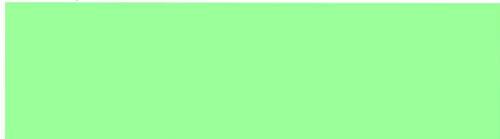
FILE: 

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 (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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, on April 15, 2013, 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 in the sciences as a cardiologist. 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 deficiencies in the submitted evidence and determined that the petitioner failed to establish eligibility for the membership criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(ii), the published material criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iii), the original contributions criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(v), 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 8 C.F.R. § 204.5(h)(3)(ix). The director did find that the petitioner satisfied the judging criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iv) and the authorship of scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi).

Part 3 of Form I-290B, Notice of Appeal or Motion allows for “a statement explaining any erroneous conclusion of law or fact in the decision being appealed.” Part 3 was completed as follows:

We respectfully assert that, in addition to the judge [of] the work of others and authorship categories, that the record reflects that Dr. [REDACTED] has satisfied the original contributions category, based on significant research and the opinions of lead experts in the field from different parts of the country.

In the accompanying letter, 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. 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). Counsel does 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).

NON-PRECEDENT DECISION

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On the Form I-290B, Part 2 indicated that a brief and/or evidence would be submitted to the AAO within 30 days. The appeal was filed on May 14, 2013. As of this date, more than four months later, the AAO has received nothing further.

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, counsel 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. Counsel offers no argument that demonstrates error on the part of the director based upon the record that was before him and includes no additional evidence.

As counsel 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.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.