

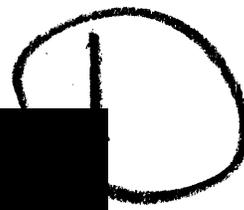
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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MAR 08 2005



FILE: SRC 04 167 51195 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

ON BEHALF OF PETITIONER: [Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant 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 summarily dismissed.

The petitioner is a porcelain and ceramic tile importer/producer that seeks to employ the beneficiary as a ventilated tile design engineer for a period of three years. The director denied the petition, finding that the petitioner failed to establish that the beneficiary satisfied the regulatory standard for an alien with "extraordinary ability in the field of business, specifically engineering."

On appeal, counsel for the petitioner asserts:

The Service misapplied its discretion in finding that it had not been established that the beneficiary has extraordinary ability in the field of science. More particularly, the Service stated on page 2 line 20 of the denial that it found 'the beneficiary ineligible for O Classification based on insufficient documentation to show that . . . he has the requisite sustained acclaim in the field of business.' The petition was based upon the beneficiary having extraordinary ability in the field of science and not business. Therefore the Service cannot be said to have applied its mind to the matter correctly when it examined the petition against the backdrop of business as opposed to science.

Section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions, has a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability.

Counsel's assertion is not persuasive. The standard and evidentiary criteria for aliens of extraordinary ability in the field of science is the same as the standard for aliens of extraordinary ability in the field of business. 8 C.F.R. §§ 214.2(o)(3)(ii) and (iii). It is noted that the director evaluated the evidence on the record to determine whether the beneficiary had established that he is recognized as being among a small percentage at the very top of the field of engineers. The director considered all the evidence on the record, without regard as to whether it related to the field of science or business. The director referred to the fields of business and science interchangeably. The petitioner bases its appeal on a question of semantics, rather than one of fact or law.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An 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.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.