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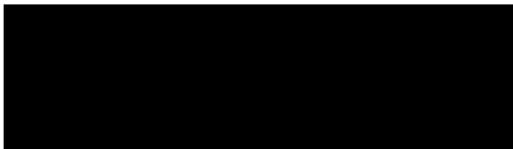
FILE: WAC 06 237 50644 Office: CALIFORNIA SERVICE CENTER Date: **SEP 25 2007**

IN RE: Petitioner:
Beneficiary:



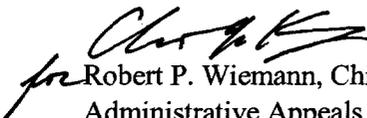
PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

ON BEHALF OF PETITIONER:



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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner is an Internet services and telecommunications firm. The petitioner seeks O-1 nonimmigrant classification of the beneficiary, as an alien with extraordinary ability under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), in order to employ him temporarily in the United States as a lead programmer for a period of three years at an annual salary of \$95,000.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary has received sustained national or international acclaim and is one of the small percentage who has risen to the very top of his field of endeavor. The director rejected counsel's repeated attempts to have the beneficiary's occupation, computer programming, classified under the arts rather than the sciences – a material issue because the regulatory standards for aliens of extraordinary ability in the arts differ from those relating to other fields, including science.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, “[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.”

The petitioner's submission on appeal is virtually identical to the petitioner's prior submission in response to a request for evidence, which, in turn, largely repeated arguments and evidence repeated from the initial submission. The director addressed the petitioner's evidence in detail in the denial notice. Counsel, on appeal, does not offer any specific discussion of the director's findings. Repetition is not rebuttal, regardless of the quantity of material redundantly offered on appeal, and counsel cannot overcome the director's specific findings simply by repeating arguments that the director already discussed and found wanting.

The only new statement on appeal, among otherwise repeated claims and arguments, is counsel's assertion that the director's decision was “arbitrary, irrational, and capricious.” This is a general statement that makes no specific allegation of error. Counsel does not elaborate as to how the decision was arbitrary, irrational, or capricious, and simply using those terms as catchwords does not compel appellate review. The bare assertion that the director somehow erred in rendering the decision is not sufficient basis for a substantive appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.