B2

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

FILE: WAC 01 283 52706 Office: CALIFORNIA SERVICE CENTER Date: MAR 22 2004

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:

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.

Marc Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office 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 arts. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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."

On the Form I-290B Notice of Appeal, counsel indicates "I am not submitting a separate brief or evidence." While substantial documentation accompanied the appeal, this documentation represents nothing more than copies of materials previously submitted, effectively duplicating the entire record of proceeding. The statement on the appeal form reads simply "Error in Fact and in Law." This is a general statement that makes no *specific* allegation of error. The bare assertion that the director somehow erred in rendering the decision is not sufficient basis for a substantive appeal, and a non-substantive appeal does not compel *de novo* review of the record. The petitioner's prior evidence need not be considered a second time merely because the petitioner has submitted it a second time. Counsel has not identified any flaw in the director's conclusions regarding that evidence.

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.

We note that the petitioner had filed a second I-140 petition on his own behalf, simultaneously with this petition, seeking the same classification. The second petition, filed with the Texas Service Center and assigned receipt number SRC 01 264 50351, was approved three months before the present appeal was filed. The petitioner has since applied for adjustment of status; that application is currently pending. The Texas approval renders the current petition effectively redundant, which may explain the petitioner's evident lack of interest in further pursuit of this appeal.

ORDER: The appeal is dismissed.