

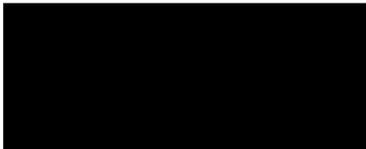


Handwritten initials/signature

U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File:

Office: California Service Center

Date: JUN 21 2001

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)

IN BEHALF OF PETITIONER: Self-represented

identification data deleted to
prevent clearly unwarranted
invasion of personal privacy.

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be 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 as a construction engineer. 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.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the Service regulation at 8 C.F.R. 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

The regulation at 8 C.F.R. 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must

be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence which, he claims, meets the following criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner submits letters from two chapter presidents of the Full Gospel Business Men's Fellowship International, attesting to his membership. The petitioner has repeatedly listed these letters as evidence of a prize or award, but he has never explained how they are, in any discernible sense, either prizes or awards. Furthermore, while the organization as a whole has the word "international" in its name, the letters are clearly from local chapters rather than the central headquarters. Also, the organization appears to be concerned primarily with religious matters rather than construction engineering.

The petitioner cites various letters from the vice president of the Professional Board of Surveyors, Architects and Engineers of [REDACTED] Province. We will address the content of one such letter further below, in the context of the petitioner's claimed original contributions of major significance. The petitioner contends that these letters represent prizes or awards, but they appear only to represent acknowledgement of the petitioner's professional contributions. Furthermore, the board, from its name, appears to be a provincial rather than national or international entity.

The petitioner also cites "a recognized letter from TELECOM STET FRANCE-TELECOM ARGENTINA S.A." We are unable to find in the record any letter matching this description. It remains that a letter from a corporation is not a prize or award; certainly the other letters the petitioner has cited under this criterion do not so qualify. The petitioner has not submitted any independent evidence to show that a telecommunications company gives out significant national or international prizes in the field of construction engineering.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The petitioner again cites his membership in the Professional Board of Surveyors, Architects and Engineers of [REDACTED] Province. The petitioner claims on appeal that he was a founder of this association, in which case his admission into membership is not surprising. Furthermore, as we have already noted, the

organization is provincial rather than national or international, and there is no indication that national or international experts are involved in selecting new members.

The petitioner asserts that he is a "member founder" of the above board's Professional Youth Committee. A committee within an organization is not, itself, a separate association in its own right. The petitioner has not submitted any documentation from the board to establish that prospective members must demonstrate outstanding achievement in order to qualify for membership.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner submits a translated letter from the academic secretary of the Faculty of Engineering at Argentina's Northeast National University. The translation states:

It is a certain that [the petitioner] . . . was convened to form the jury panel for the concourse of the subject BUILDING INSTALLATION, in which will be chosen the next titled person for that subject.

The professionals that will concourse will be the Engineer [redacted], the Engineer [redacted] and Engineer [redacted]

Owing to grammatical irregularities in the translation, we cannot determine from the letter whether the petitioner was a member of the jury, or whether the petitioner simply selected the jury members. On appeal, the petitioner states that this letter shows that he "participate[d] as a 'judge' to appoint the next 'Dean of the Subject: Building Installation Codes.'" The petitioner asserts that he held this position for two years, and that "[t]his responsibility is given to professionals that demonstrated excellence and ha[ve] risen to the very top of their respective areas." The record offers no support for the petitioner's characterization of his duties. Given that faculty hiring decisions must be made by every department at every university, it is not readily apparent that only the top figures in the field participate in the faculty selection process.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The petitioner asserts that he "[p]articipate[d] extensively in introducing and implementing new techniques in the Construction Engineering area of the Civil Engineering in order to reduce costs

and improve efficiency." He cites letters from the vice president of the Professional Board of Surveyors, Architects and Engineers of Chaco Province. One such letter states:

With this letter we would like to congratulate [the petitioner] for his remarkable participation as a highly qualified professional during the organization of our Professional Board of Surveyors, Architects and Engineers of Chaco as the most outstanding member of the Professional Youth Committee on April 1995, very important Committee among us because of the implementation of new professional techniques in construction and for his great ability [in the] organization [of] technical debates and exhibitions with high level of quality as well.

The record contains several other letters pertaining to various engineering projects in which the petitioner has participated. None of these letters, however, indicate that the petitioner's work is of national significance or has won him national acclaim. The petitioner asserts that the record shows what he has done to "improve the construction technology REGION NEA (North Eastern of Argentina Republic)." The petitioner does not indicate how he has had a significant impact on construction engineering in other parts of Argentina, which is necessary to show that the petitioner has earned national rather than provincial recognition.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

The petitioner states that he satisfies this criterion because he has organized professional conferences and presentations. These events do not constitute artistic exhibitions or showcases, and the petitioner has not shown that only Argentina's top construction engineers participate in conferences in this manner.

The director denied the petition, stating that the petitioner has not placed himself at the top of his field. On appeal, the petitioner essentially repeats his prior claims in language similar (but not identical) to the language of his earlier submissions. We have already addressed, above, the principal variations in the context of the individual criteria.

The record as a whole does not establish that the petitioner has earned any professional reputation outside of the province of Chaco in northeastern Argentina. The petitioner has been active in professional organizations and church groups, but he has not shown that he has had a major national or international impact on his field.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small

percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States.

Review of the record, however, does not establish that the petitioner has distinguished himself as a construction engineer to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence indicates that the petitioner shows talent as a construction engineer, but is not persuasive that the petitioner's achievements set him significantly above almost all others in his field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.