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U.S. Department of Justice
Immigration and Naturalization Service

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



File: WAC-01-243-57932

Office: California Service Center

Date: AUG 26 2002

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

Public Copy

INSTRUCTIONS:

This is the decision 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.

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 that 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 that 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, 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 The decision of the director will be withdrawn and the petition will be remanded for further action and consideration .

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. The director determined the petitioner had not provided “claims or representations to indicate that the [petitioner] is an alien of extraordinary ability in the sciences, arts, education, business or athletics as required by statute.” The director continued:

It is fundamentally unreasonable to believe that a senior architect as presented could substantially benefit prospectively the United States or be an extraordinary alien in the sciences, arts, education, business, or athletics.

On appeal, the petitioner asserts that he submitted additional evidence that does not appear to have been considered by the director. He resubmits this evidence.

The initial petition was supported solely by a letter indicating that the petition was filed to preserve 245(i) benefits and that additional documentation would be forthcoming. The exhibits submitted on appeal were not previously in the record and the petitioner has not submitted evidence from Federal Express confirming that such evidence was previously submitted as claimed. Nevertheless, the director issued her final decision without first issuing a request for evidence despite the petitioner’s claim that additional evidence would be forthcoming. Nor do we concur with the director’s conclusion that it is “fundamentally unreasonable” for any architect to demonstrate extraordinary ability. Architects such as Frank Lloyd Wright have attained national acclaim for their extraordinary abilities.

Therefore, this matter will be remanded for consideration of evidence submitted on appeal. Specifically, while the petitioner claims to meet seven of the ten regulatory criteria set forth in 8 C.F.R. 204.5(h)(3), the director must determine whether the evidence submitted in support of at least three of the criteria meets the plain language of the regulation and reflects or is indicative of national or international acclaim. For example, the director must determine whether the petitioner has demonstrated that the colleges to which he belongs require outstanding achievements of their members, whether the petitioner’s publications have been influential or are otherwise indicative of national acclaim, whether the petitioner’s duties as a professor constitute judging the work of others to a degree indicative of national acclaim, whether buildings designed by the petitioner constitute “artistic exhibitions or showcases,” whether the petitioner played a leading or critical role for an organization *with a distinguished reputation*, and whether the petitioner has adequately established his *annual* salary as implied. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361.

ORDER: The director’s decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, if

adverse to the petitioner, is to be certified to the Associate Commissioner for Examinations for review.