

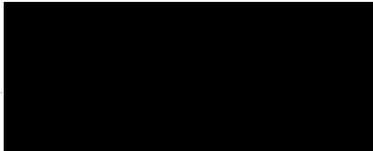


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U.S. Department of Justice
Immigration and Naturalization Service

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



File: EAC-00-214-52452

Office: Vermont Service Center

Date: 12 FEB 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 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, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont 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 in the sciences. 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

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(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.

This petition seeks to classify the petitioner as an alien with extraordinary ability as an engineer. 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 record includes a letter from the Wentworth Institute of Technology confirming that the petitioner was vice president of the student chapter of the American Society of Heating Refrigeration Air Conditioning Engineers (ASHRAE) for the spring and summer semesters of 1993 and that he received a \$500 scholarship from the Boston Chapter of ASHRAE in recognition of a truck refrigeration design. In 1982 the Government College of Technology, Lahore, awarded the petitioner a merit certificate in recognition of his service as advisor of the R.A.C. Society. The college also awarded the petitioner a merit certificate for his participation in "foot-ball."

Competition for scholarships is limited to other students and does not include national experts in the field. As such, the scholarship does not reflect that the petitioner compares with experienced experts in the field from around the country. Moreover, a merit certificate from one's school is not a national award, but a local award. Finally, that the petitioner played soccer while a student does not reflect on his acclaim in his professional field.

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 became a non-student member of ASHRAE in 2000. The petitioner fails, however, to submit any evidence of the membership requirements for ASHRAE. A review of their website, www.ashrae.org/about/member.htm, however, indicates that membership "is open to any person associated with heating, ventilation, air conditioning or refrigeration through such disciplines as indoor air quality and energy conservation, for example." Thus, the petitioner has not established that he is a member of an association which requires outstanding achievements of its members.

Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

The petitioner submitted an ASHRAE Boston Chapter newsletter which announces the petitioner's scholarship award. A newsletter is not major media. In addition, the newsletter simply includes an announcement of the award. It does not include an article primarily about the petitioner himself.

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

The petitioner submitted letter from employers confirming his employment and duties. While these letters provide general praise of his job performance, they do not specify any contributions he made to the field of engineering. The petitioner also submitted what he terms as "extraordinary designs [sic] samples." There is no evidence that all of these designs have been utilized. Nor has the

petitioner submitted the opinions of independent experts in the field evaluating his designs. [REDACTED] general manager of Rice Partnership, writes that the petitioner is the head of mechanical engineering at that firm. [REDACTED] further indicates that the petitioner was the project manager for a modification of the fire safety system of the [REDACTED] and designed the air conditioning system for the Nassau County Department of Health. [REDACTED]

[REDACTED] notes that the *Long Island Business Newspaper* listed this project as a recent notable project performed by the firm. The newspaper, however, did not single this project out as having major significance. Rather, the newspaper published a chart of local architectural firms listed by size and listed recent projects of note for nearly every firm. The record does not indicate that the petitioner's designs have influenced the field of engineering or that the petitioner has sustained national acclaim for these designs.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

As evidence to meet this criterion, the petitioner submitted a certificate of appreciation for his service as vice-president of the student chapter of ASHRAE. Serving in a leading role for a student chapter of an international organization cannot be considered a leading or critical role for the organization as a whole.

The record also fails to establish that the petitioner played a leading or critical role for Rice Partnership or that Rice Partnership has a national distinguished reputation. Serving as the head for one program, mechanical engineering, is not necessarily a leading or critical role for the company as a whole. Moreover, the only evidence regarding the reputation of Rice Partnership is a listing of the largest architectural firms in Long Island in the *Long Island Business News*, which ranks Rice Partnership as the 24th largest firm in Long Island. Size is not necessarily indicative of reputation. Even if it were, there are 23 larger architectural firms in Long Island alone. The record contains no evidence of Rice Partnership's national reputation. All of the "notable" projects listed appear to be local.

The record also contains a photograph of [REDACTED] pouring a mosque where the petitioner allegedly served as a field engineer. The petitioner is also featured in the photograph. This picture is not evidence that the petitioner performed a leading or critical role for the engineering company constructing the mosque.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself as an 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 an 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.