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Immigration and Naturalization Service

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



16 SEP 2002

File: WAC 01 111 53056

Office: California Service Center

Date:

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:



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 appeal will be sustained and the petition will be approved.

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 that he qualifies 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). 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, filed on March 5, 2001, seeks to classify the petitioner as an alien with extraordinary ability as a writer. 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 that, counsel 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 a letter from Ibrahim Khoury, General Manager of Lebanese National Television ("Teleliban"), stating that the petitioner's script for his television series entitled "The Short Road," won the Golden Cedar Prize in 1997. Ibrahim Khoury states: "This award is given once every three years to the author of the best script for a television series."

A letter from [REDACTED] Director General, Lebanese Production Society, states:

[The petitioner] has participated in a competition for best story, and his submitted short story won first prize, and was selected, produced and broadcast by Lebanese Public Television. The arbitration committee selected [the petitioner's] story from 200 stories submitted by professional writers and amateurs. The name of the story [was] "The Short Road." [It] won based on... academic style and characters, and was produced into 14 [television] episodes.

While the national significance of the Golden Cedar Prize is not immediately evident, the petitioner submits additional evidence of the award's renown in response to the director's request for evidence. The petitioner provides a letter from [REDACTED] Head of the Public Relations Department for Teleliban. He states:

The Golden Cedar Prize is the most prestigious and respected prize awarded to television screenwriters in Lebanon. The cedar tree is an important emblem in Lebanese society, as it has played an important role in the development of our culture and religion. Thus, the Golden Cedar Prize is awarded in recognition of extraordinary achievement in the field of television scriptwriting. The prize is given only once every three years and the competition is fierce among the 200-250 applicants.

The goal of the award is to reward and encourage excellence in television writing and to provide the recipient an avenue, which his or her television series will be developed and aired on Lebanese public television.

The winner of the award is announced every three years at the end of November during a large artistic festival at an open-air theater in Beirut. The festival is always hugely successful, in large part because people are very anxious to learn who has received the coveted Golden Cedar Prize. A twelve-person committee who closely studies the submissions and evaluates the quality and content of the writing decides the winner of the prize. The committee is made up of successful scriptwriters, producers, novelists, university literature professors, journalists and literary critics.

[The petitioner] was awarded the Golden Cedar Prize for the period (1993-1996). His script was chosen from a field of over 200 other entries. [The petitioner] demonstrated true achievement as a writer as he authored both the story on which the script was based and the script itself.

On appeal, counsel takes issue with the wording of the director's decision. In the notice of denial, the director stated: "...no documentation was submitted from an official government authority recognizing the award's national value or significance." While evidence from an "official government authority" is clearly not a statutory or regulatory requirement, we find that the director was merely seeking independent corroborative evidence to confirm the assertions of the witnesses selected by the petitioner. However, we concur with counsel that the evidence is sufficient to establish the national significance of the Golden Cedar Prize.

The petitioner submits two letters from officials of the Lebanese Ministry of Culture and Education on appeal. [REDACTED] of the Ministry's Research and Development Office repeats the information provided by previous witnesses regarding the national significance of the Golden Cedar Prize. [REDACTED] the Lebanese Minister of Culture and Higher Education, attests to the petitioner's national recognition as short story author, television writer, and journalist. These letters further strengthen counsel's assertion that the petitioner's receipt of the Golden Cedar Prize is sufficient to satisfy this criterion.

*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.*

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other *major* media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language of the nation where the alien seeks to demonstrate acclaim. An alien cannot earn acclaim at the national level from a local publication or from a publication in a language that most of the population cannot comprehend.

The petitioner submits two articles appearing in *Al Anwar*, a Lebanese newspaper, in 1997 and 1998. The articles offer favorable reviews of the petitioner's short story collection entitled "The Forgotten Lebanese" and novel entitled "Little Guns." According to *Al Anwar's* website, the publication was established in 1959 and is "a leading daily broadsheet with wide circulation and readership in Lebanon and the Arab world."

The petitioner submits additional articles offering positive reviews of his writings appearing in *Al-Naher*, *As-Safir* and the *Lebanese Army Newspaper*. According to *As-Safir's* website, the newspaper was established in 1974 as an Arabic Political Daily covering Lebanon and the Arab

world. *Al-Naher* is described as a Lebanese newspaper published in Beirut. A review of the articles submitted reflects that the petitioner's literary works are the main subject of the reviews appearing in these national publications.

The petitioner also submits reviews of his work appearing in publications originating in Italy, Syria, and England, but the extent of the publications' circulation, a key factor in determining whether they qualify as major media, has not been shown.

In a statement accompanying the appeal, counsel argues that director applied an incorrect standard and disregarded the petitioner's evidence. The notice of denial stated:

The evidence reveals that the articles and samples of written work do not single out the petitioner and his or her work. Moreover, the articles are published in the Arabic language that would exclude most Americans. In fact, its readership is necessarily limited to that small fraction of U.S. residents who read Arabic.

We disagree with the director's conclusion that the articles did not single out the petitioner and his work. We have already noted that the petitioner's literary work was the main subject of the articles. Another flaw in the wording of the director's decision, as noted by counsel, is reflected in the second and third sentences cited above. The fact that the articles were published in Arabic is irrelevant given that the majority of Lebanese residents speak Arabic. In this case, the petitioner's evidence is being evaluated based on whether it meets Lebanese, rather than U.S., major media standards. If the petitioner were attempting to demonstrate national acclaim in the United States, the director's statements would be applicable to the petitioner's eligibility under this criterion. We note, however, that at the time of filing, the petitioner had been present in the United States for only six months. While sustained acclaim is crucial for a demonstration of extraordinary ability, we find that the petitioner's sustained acclaim can also be established through his coverage in the Lebanese major media. The petitioner's demonstration of acclaim is certainly not limited to his media exposure in United States, as implied by the director's notice of denial. In this case, the petitioner need only establish sustained acclaim in Lebanon. We find that the petitioner's evidence of major media coverage in Lebanon is sufficient to satisfy this criterion.

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

The petitioner submits letters from various witnesses, mostly from managers and editors of media sources that have broadcast or published the petitioner's stories. Simply performing the duties of a professional writer by having one's work published or broadcast hardly qualifies as a contribution of major significance. On appeal, counsel cites a witness letter referring to the petitioner's receipt of a Golden Cedar Prize. However, this award has already been addressed under a previous criterion that the petitioner has already met. The ten criteria are intended to

be separate and distinct from one another. An award cannot fulfill this second criterion without clear evidence that the award was given for specific contributions of major significance, rather than simply for recognition of the petitioner's television script writing skills.

Counsel argues that the petitioner's writing of the first Arabic language children's program for television, entitled "[REDACTED] and [REDACTED] Friends," constitutes a major contribution. In support of this assertion, counsel cites a single witness letter from E [REDACTED], Vice Director for Transmission of Arab Radio and Television in Italy. The letter from [REDACTED], in its entirety, states the following:

The Lebanese novel writer, [the petitioner], worked in (Arab Radio and Television) at our production and transmission station in Italy, as a [television] producer and writer. He worked from November 14, 1997 through February 29, 2000.

[The petitioner] wrote all kind of programs. He wrote the first program (on air) for children in the Arab World. The program's name was "[REDACTED] and [REDACTED] Friends" and it was seen in the same time in five continentals [sic]. It was an outstanding and successful show.

He also created animation characters children were very pleased with. He is considered the pioneer in this field in the Arab World, and many Arabian television channels did what he had done three years before. They have children programs live right now.

The petitioner offers no evidence from other "Arabian television channels" confirming the above assertions or establishing the petitioner as a pioneer in producing and writing animated programs for children. Section 203(b)(1)(A)(i) of the Act and the construction of the regulations demonstrate the Service's demand for extensive documentation of sustained national or international acclaim, rather than the subjective opinion of a single witness selected by the petitioner. The above-cited letter, written by a former co-worker of the petitioner at Arab Radio and Television in Italy, fails to demonstrate the petitioner's impact on the field.

The letter offers minimal details regarding the petitioner's specific efforts and his direct role in bringing the children's program to fruition. The record contains no evidence to show the number of subscribers to the Arab Radio and Television satellite service or how many viewers actually watched the petitioner's animated series. Furthermore, the record does not indicate whether the show aired on a major television network or lesser local stations. While the petitioner may have played a role in writing the script and creating animated characters for the series, there is no independent evidence confirming that "[REDACTED] and [REDACTED] Friends" was critically acclaimed in major Arab publications or other media. Simply having one's scripts featured on television is an inherent duty of television writers and does not constitute a contribution of major significance in the petitioner's field. In sum, the evidence submitted by the petitioner fails to show that his success as a writer also resulted in a contribution of major significance to his field.

*Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.*

On appeal, counsel argues that the petitioner's commercial success is attested to in the testimonial letters submitted by book publishers and television managers. While the petitioner has produced little evidence of box office receipts or other sales, the testimonial letters can be considered as comparable evidence for this criterion under 8 C.F.R. 204.5(h)(4). The petitioner submits a letter from Ibrahim Khoury, General Manager of Lebanese National Television, stating:

Two of [the petitioner's] television films ranked as the most watched film for the respective years, 1993 and 1996, during which they were broadcast... [The petitioner's] television programs always proved to be highly successful for our network, as many advertisers chose to pay for commercial time during his films and series.

The above statement is sufficient to demonstrate the petitioner's commercial success as a writer of television scripts in Lebanon. Other letters from officials of the Lebanese major media confirm his success as a writer. As noted previously, several leading Lebanese newspapers have offered favorable reviews of the petitioner's literature. The Dar El Farabi Publishing House describes the petitioner as one of the "top five Lebanese writers." They credit the petitioner as being a "publishing house best seller" and note that his works are sold throughout the Arab world. The Lebanese Newspaper, *Dar Assayad*, states that the petitioner is one of the best writers in Lebanon.

While the record would have been strengthened by evidence of the petitioner's Lebanese book sales, we note that the petitioner did provide some quantifiable evidence of his commercial success beyond Lebanon. Bacharia Publishing House in Egypt states that they sold 3,215 copies of "Little Guns" in 1999, placing the petitioner among the "Lebanese top five sellers" in Egypt.

Dr. Sulaiman Al-Askari, Editor-in-Chief of Al-Arabi Magazine in Kuwait, states that the petitioner is one of the best known foreign writers in Kuwait. Other witnesses' assertions regarding the petitioner's popularity throughout the Arab world lend additional support to his eligibility.

Beyond the above criteria, the director's decision stated that the petitioner had not established his substantial prospective benefit to the United States. However, we note that in response to the director's request for evidence, the petitioner has provided letters from the W. Andrawis Talent Agency of Riverside, California and Robinson/Sherman Pictures of Beverly Hills, California. Officials from these agencies express interest in the petitioner's talent as a script writer of films and television programs. The director's decision, however, does not address this evidence.

In this case, the petitioner has satisfied three of the lesser criteria as a writer. Pursuant to the statute and regulations as they are currently constituted, the petitioner qualifies for the classification sought. In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel, the totality of the evidence establishes an overall pattern of sustained acclaim and extraordinary ability. The petitioner has established that he has been recognized as an alien of extraordinary ability who has achieved sustained national acclaim and whose achievements have been recognized in his field of expertise. The petitioner has also established that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has established eligibility for the benefits sought under section 203 of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has sustained that burden.

**ORDER:** The decision of the director is withdrawn. The appeal is sustained and the petition is approved.