

**PUBLIC COPY**

**U.S. Department of Homeland Security**

Citizenship and Immigration Services

**BZ**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 Eye Street N.W.  
Washington, D.C. 20536

File: WAC 02 241 53728 Office: CALIFORNIA SERVICE CENTER

Date: **DEC 9 - 2003**

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 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 Citizenship and Immigration Services (CIS) 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*   
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 Administrative Appeals Office 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 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.

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 pertinent regulations 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 she has sustained national or international acclaim at the very top level.

The petitioner is a contortionist who performs with Cirque du Soleil's Las Vegas-based show "O."

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). Counsel states that the petitioner "won such an award in 1996 when she was recognized by the Mongolian National Circus with their equivalent of an Olympic Medal." Olympic Medals, however, are awarded by an international authority (the International Olympic Committee) and

citizens of most nations are able to compete for such medals. The Nobel Prize, while awarded by panels in Sweden and Norway, is awarded without regard to the nationality of the recipients.

Counsel contends that “contortionism is the national pastime . . . of Mongolia” and that “the best contortionists in the world come to Ulaan Baatar to compete and make their name in the field of contortionism.” Counsel adds that the beneficiary received an award as “Best Cultural Worker of Mongolia,” competing against not only others in her own field, but also “athletes, movie stars [and] other artists.”

Because the statute demands “extensive documentation” of acclaim, we favor an extremely restrictive interpretation of the “one-time achievement” clause. Nothing in the regulations states or implies that every field of endeavor shall be considered to have a corresponding award that satisfies the one-time achievement clause. Counsel rightly names an Olympic medal as an example of a qualifying major, internationally recognized award. We hold that any award that would qualify as a one-time achievement must be at least as well known as an Olympic medal; examples include the Nobel Prize and Academy Award. These awards and prizes are known not only to individuals within a given field, but rather enjoy nearly universal recognition. The petitioner has not shown that the petitioner’s Mongolian awards have the same international base, and level of recognition, as Olympic medals or the other examples provided. The Mongolian National Circus prize appears to be little known outside of circus performers. The “Best Cultural Worker of Mongolia” prize appears to be available only to Mongolians, and thus is at best a national rather than international award. Therefore, we cannot find that the above prizes qualify as major, internationally recognized awards, sufficient by themselves to establish the petitioner’s eligibility.

Barring the alien’s receipt of a major, international 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.

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

We will consider the two prizes noted above under this criterion. Counsel states “[i]n 1996, [the petitioner] competed at the **Mongolian Genuine Competition** that only takes place once every five (5) years. She was awarded ‘**First Place**’ by the **Mongolian National Circus**” (emphasis in original).

Dr. D. Ukhnaa, executive director of the Steering Committee of the Federation of Mongolian Art Workers’ Associations, states that the competition is a “top art contest,” and that the petitioner is “the best contortionist in the country.”

The petitioner documents her receipt of the “Best Cultural Worker of Mongolia” award from Mongolia’s Minister of Culture. D. Dorlig, head of the Department of Awards and Stipulation [sic] at Mongolia’s Ministry of Culture, states “[t]he Ministry of Culture of Mongolia grants the ‘Best Cultural Worker of Mongolia’ Award as a recognition to artists of distinction. The award is of national scope and significance and is the highest honor given to artists in Mongolia.” This letter is strong corroborative evidence from the awarding entity.

Other awards are supported by varying amounts of background information. A "Certificate of Merit" states that the petitioner won the "Fangcao Silver Prize" at the Third Wuhan International Acrobatic Art Festival of China in 1996. Accompanying this certificate are copies of several articles. One of the articles is about the Eighth Wuqiao International Acrobatic Festival, which appears to be an entirely different event, but other articles support the claim that the Wuhan event is a recognized international competition. The petitioner's prize from this festival is among the strongest evidence submitted under this criterion.

The petitioner received a prize at the 14<sup>th</sup> April Spring Friendship Art Festival in North Korea. The record establishes the significance of the festival but not of the petitioner's prize. Materials in the record indicate that tens of thousands of gymnasts and acrobats participate in the festival, but they neither mention individual prizes nor indicate that the event is competitive. The "prize" appears to be essentially an acknowledgement of the petitioner's participation in the event.

The petitioner submits photographs of two medals with the English inscription "Mongolian National Championship of Contortionists," respectively dated 1995 and 1999. The record contains no objective information about the competition or the medals. A search of <http://www.google.com> for the exact phrase inscribed on the medals yielded no "hits."<sup>1</sup>

The director found the above evidence sufficient to establish the petitioner's receipt of lesser national awards.

*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.*

Counsel cites the petitioner's attendance at the Mongolian Circus School and the Acrobatic Circus State College, as well as her work at the Mongolian State Circus. Attendance at a school or college is not membership in an association *per se*, nor is employment.

The record contains a certificate from the Association of Art Workers, recognizing the petitioner's "valuable contribution to the development of Contortion Art in Mongolia, training more about [sic] ten young contortionists and working as a consultant." This certificate does not even state that the petitioner is a member of the Association of Art Workers, let alone establish that the association requires outstanding achievements of its members. The petitioner has not met 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.*

---

<sup>1</sup> A search for the petitioner's name yielded a single "hit," on Cirque du Soleil's website, in a page identifying the contortionists with "O": [http://www.cirquedusoleil.com/CirqueDuSoleil/en/shows/resident/o\\_r/contortion.htm](http://www.cirquedusoleil.com/CirqueDuSoleil/en/shows/resident/o_r/contortion.htm).

Counsel cites the petitioner's appearances in magazine and billboard advertisements as part of the well-known "Got Milk?" advertising campaign. The petitioner appears as one of two unidentified individuals, difficult to recognize under heavy makeup. The "Got Milk?" advertisements generally identify the subject of each advertisement; in this case, the advertisement simply identifies the contortionists under the collective designation of "contortionists from Cirque du Soleil." It is highly tenuous to assert that advertisements of this kind amount to "published materials about the alien"; the minimal text in the advertisements pertains to the benefits of dairy products. Also, we are strongly reluctant to classify promotional advertisements<sup>2</sup> as "published materials" because, in principle, anyone can purchase advertising space to promote himself or herself.

The petitioner submits copies of several magazine articles. Like the "Got Milk?" advertisement, many of these articles focus not on the petitioner but on Cirque du Soleil collectively, particularly its production of "O." Counsel states that these articles have been selected for submission because they include photographs that depict the petitioner and other contortionists. An article from *Sports Illustrated*, for instance, depicts four contortionists, none of whom are identified by name. The article itself refers to Cirque du Soleil's practice of hiring former Olympic athletes. Because the petitioner is not a former Olympic athlete, this article is not "about the alien" in any defensible sense. The photographs in the articles generally depict the petitioner and other contortionists performing their act, which creates an unusual and visually striking image. It appears that the photographs were chosen for this reason, rather than to draw attention to the petitioner individually.

The only article that identifies the petitioner by her full name is from *Showbiz*. Her name appears once, in a sentence identifying all four members of the petitioner's contortionist group. *Showbiz*'s masthead bears the subtitle "the ultimate guide to Las Vegas excitement," indicating that the magazine is a local Las Vegas publication rather than a nationally circulated periodical. Another *Showbiz* article includes the petitioner, once again, only as an unnamed Cirque du Soleil performer in a photograph, never mentioned in the body of the text.

A captioned photograph from an unnamed, undated newspaper identifies the petitioner only by her first name, and indicates that "the Boswell-Wilkie Circus . . . will be performing next to the High School in De Dooms on Monday." This article appears to derive from a local rather than national publication.

The petitioner's initial submission has not established that any national or international publication has ever identified her by name, much less featured her as the central subject of an article. The fact that nearly all the publications systematically refer to the petitioner as a Cirque du Soleil performer, rather than by her own name, emphasizes that the acclaim attaches to Cirque du Soleil as a collective entity rather than to the petitioner in her own right.

In response to a request for further evidence, the petitioner submits a partially translated article from *Urлагийн Eртунтс* containing a profile of the petitioner as well as an interview with her. The article is undated. The page shows the numerals "2000" but no month or year, so it is not clear that the "2000" refers to the year of publication. Although this is the only article that is indisputably about the

---

<sup>2</sup> We note the distinction between "promotional advertisements" and scholarly articles for which the authors have paid a page charge. The latter must be labeled "advertisements" for strictly technical reasons.

petitioner, the petitioner offers no explanation for its omission from the initial submission. The petitioner submits a letter from the publisher of *Urlagiin Ertunts*, who states that the newspaper circulates 20,000 copies a week, but does not specify the breadth of this circulation (i.e., local, national or international). From the available evidence, it is not even clear whether the newspaper is published in Mongolia or in the United States for the benefit of Mongolian expatriates.

For the reasons discussed above, the petitioner has not satisfied this criterion.

*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.*

T. Tsend-Ayush, the petitioner's former coach, and the head of Mongolia's State Circus, identified only as "Dorj," state that the petitioner "worked as a member of Jury at the circus competitions." Batchuluun Ochirbaat, director of the Mongolian Contortion Association, states that the petitioner "is one of the best athletic judges in Mongolia." Witnesses attest that the petitioner was chosen as a judge based on her skills and reputation. This evidence appears sufficient to satisfy this criterion.

Counsel also cites evidence that the beneficiary "was a **Coach** at the state Circus Acrobatic Championship." A certain amount of "judging" is inherent to coaching, in the sense that a coach evaluates the work of the athletes whom he or she trains and directs. It does not follow, however, that coaches have, as a class, achieved a level of acclaim above that of non-coaching athletes. Our finding that the petitioner has acted as a judge of the work of others does not derive from her work as a coach.

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

The petitioner did not initially claim to have satisfied this criterion. Subsequently, counsel has claimed that Cirque du Soleil is an artistic exhibition or showcase. This regulatory criterion, however, applies to the visual arts rather than the performing arts. The regulations provide a separate criterion for the performing arts, at 8 C.F.R. § 204.5(h)(3)(x), which the petitioner has not claimed to have satisfied. Every performing artist "displays" his or her work to an audience, either live or via recording or broadcast media. Nothing in the record shows that the petitioner has been a highlighted performer with Cirque du Soleil. For example, the record does not contain promotional materials that draw special attention to the petitioner's participation.

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

The director discussed this criterion but offered no finding as to whether or not the petitioner has satisfied it.

Angelique Talvat, head contortionist coach for Cirque du Soleil, states:

[The petitioner's] role as a contortionist is critical to the unique success of "O." [The petitioner] is the only girl capable of performing the move called the "Open Bridge." The Open Bridge is the most difficult act for any contortionist to perform. She is the most flexible in performing "Stoika," the second most difficult act for contortionists. Because of her extraordinary skills in this difficult discipline, I have chosen [the petitioner] to be the Captain of the contortionist act.

Other witnesses within Cirque du Soleil assert that the petitioner performs in a vital role because of her ability to perform difficult maneuvers. The petitioner has submitted copies of the souvenir program from "O." The program features one photograph of the contortionist act, but every act is shown in this way. The petitioner appears in an alphabetical listing of cast members, not highlighted or set apart from the rest of the cast. The show's writer/director, director of creation, and other staff are featured more prominently than the petitioner.

Furthermore, while the petitioner, as "Captain of the contortionist act," exercises some leadership over the other contortionists, she would appear to be subordinate to Ms. Talvat. While Cirque du Soleil is certainly a distinguished organization, it mounts several different productions at one time. The petitioner has not shown that one act, as part of one of several Cirque du Soleil shows, is in itself an organization or establishment with a distinguished reputation.

*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The director described the petitioner's submissions regarding this criterion, but arrived at no finding.

At the time of filing, the petitioner earned \$120 per show for 476 shows per year. An increase of \$10 per show was scheduled to take effect on January 1, 2003. The record shows that the petitioner's compensation per show as of the filing date was \$20 more than the price of one \$100 ground-floor ticket (\$30 more than the price of a \$90 balcony seat). Assuming the petitioner performed all 476 shows for the year, the petitioner's annualized earnings would be \$61,880 in 2003.

Counsel cites data from the Bureau of Labor Statistics and other sources, indicating that most actors earn roughly \$41,000 or less per year. Counsel concedes that the petitioner is not an actor, but counsel asserts that the comparison is justified because comparable statistics are not available for acrobats and contortionists and because the Bureau of Wage Statistics cross-references "circus performers" under code 27-2011, "Actors and Actresses." Counsel states that the Bureau of Labor Statistics "defines actors as those who 'play parts in stage for entertainment...interpret serious or comic role by body movement to entertain audience.'" The actual, unedited description of an actor's job is "Play parts in stage, television, radio, video, or motion picture productions for entertainment, information, or instruction. Interpret serious or comic role by speech, gesture, and body movement to entertain or inform audience. May dance and sing." We are not persuaded that the petitioner reasonably falls under the classification of an "actor."

Furthermore, even if we compare the petitioner with actors, exceeding the average or median annual wage does not by itself place the petitioner at the top of the field. Counsel cites data from the Economic Research Institute, indicating that the 90<sup>th</sup> percentile “base salary” for an actress with 14 years of experience is \$40,675, but the petitioner has also provided contradictory information from the Bureau of Labor Statistics, indicating that, of 63,500 actors in the United States, ten percent earn \$93,620 or more each year.

Terrence R. Williams of Cirque du Soleil’s Resident Shows Division states that the petitioner “presently earns an annual salary of \$61,880.00, which is superior to pay received by many other contortionists worldwide.” This assertion is unsupported, and even if true it is too vague and general to be of value. “Worldwide” comparison of an alien’s compensation is not appropriate because of significant discrepancies from country to country. The highest-paid contortionist in a given country may earn less than the average pay in a more prosperous nation. The petitioner now works in the United States, and therefore it is appropriate to compare her recent earnings to those of other contortionists in the United States.

The petitioner has supplied no documentation to allow a reasonable comparison between the petitioner’s compensation, and the remuneration paid to others who perform essentially the same tasks as the petitioner.

The director determined that, while Cirque du Soleil is among the world’s most famous circuses, the petitioner has not established that she, individually, has earned sustained national or international acclaim in her field. On appeal, counsel protests the director’s “overly general statements in concluding that the evidence submitted ‘has fallen short of establishing the petitioner as an alien of extraordinary ability who is at the very top of her field.’” Counsel also notes the director’s failure to state specific findings regarding several of the criteria, and states that these omissions “must indicate that the director finds that the petitioner satisfied” those criteria. While the director’s decision was at times carelessly worded, counsel’s inference is unjustified. One could just as easily state that, because the director did not state that the petitioner had satisfied those criteria, it must mean that the director found that the petitioner had not satisfied them. Supporting this latter interpretation is the director’s denial of the petition, which definitively establishes that the director did not find that the petitioner met sufficient criteria to warrant approval.

Counsel argues that the petitioner has persuasively satisfied the criterion pertaining to acting as a judge of the work of others. We concur, as discussed above, and withdraw the director’s finding to the contrary.

Counsel is less persuasive regarding the criterion pertaining to published materials about the petitioner. Counsel asks, rhetorically, “[w]hy [did] such major publications as FITNESS and SPORTS ILLUSTRATED, for example, publish the petitioner’s photograph to illustrate the story about the top international circus, Cirque du Soleil? The petitioner must have been deserving of this privilege.” This argument presumes that the publications had photographs of the entire cast of Cirque du Soleil, and specifically chose photographs of the petitioner as a “privilege.” Counsel

has not shown this to be the case. The rhetorical question of why the magazines used the petitioner's photograph could be answered by contacting the publishers of those magazines. The record, however, contains nothing from the publishers to establish that the photographs were selected because they depict the petitioner, rather than for the overall "look" of the photograph.

Counsel states "[t]he petitioner provides articles from 24 (twenty four) publications, including TIME MAGAZINE, LOS ANGELES TIMES, THE DENVER POST, and THE LONDON FREE PRESS. If these do not suffice to establish what is required under this criterion, it is hard to imagine what would." The regulation requires "published materials about the alien." The articles cited are published materials about Cirque du Soleil, and include photographs of several unidentified individuals, one of whom is the petitioner.

Regarding the article in *Urlagiin Ertunts*, the director stated that the publication of this single article does not establish a sustained pattern of acclaim. Counsel argues "the very content of the article itself clearly establishes that the petitioner has sustained national acclaim in citing, among other things, that she won several top national and significant international awards." It is indeed significant that this article, never even mentioned until just after the director informed the petitioner that the previously submitted publications were insufficient, addresses other regulatory criteria. This is one reason why the regulation requires *dated* articles – in order to establish that articles were published independently, and not created in response to perceived deficiencies in the record.

It remains that a single article does not establish a sustained pattern. Counsel contends that "the regulations do not necessarily require [extensive documentation] for each and every criteria." The "extensive documentation" requirement derives not from the regulation, but from the underlying statute. Regulations implement but cannot modify statutes, and we cannot presume that Congress intended anything other than the plain meaning of "extensive documentation."

Regarding the director's finding that the petitioner is currently known only as a member of a famous group, rather than individually in her own right, counsel offers the petitioner's awards as counterexamples. These are, indeed, individual awards, but then the director acknowledged that the petitioner "has submitted evidence of having received several awards."

With regard to the claim that the petitioner plays a leading or critical role, counsel points to the statements of Cirque du Soleil officials who indicate that the petitioner "is critical to the unique success of 'O'" because only the petitioner can perform the "Open Bridge" contortion. Regardless of what Cirque du Soleil's officials may honestly believe, the record contains no persuasive evidence to show that the success of "O" is contingent on the petitioner's ability to perform the "Open Bridge," rather than on the global reputation that Cirque du Soleil had earned years before the petitioner began working there. The souvenir program from "O" makes no mention at all of the "Open Bridge," and there are no promotional materials in the record showing that the "Open Bridge" is heavily advertised as a centerpiece of the program. The magazine and newspaper articles in the record make no mention of the "Open Bridge." In short, there is no evidence that a significant proportion of the audience has heard of the "Open Bridge," and has

bought tickets primarily to see that contortion. The record does not reflect considerable discussion of the "Open Bridge," said to be the most difficult move in contortion, except among the petitioner's current and former trainers and employers. In the absence of first-hand evidence showing a direct correlation between the performance of the "Open Bridge" contortion and an increase in ticket sales to "O," the claimed link between the petitioner's skills and the success of "O" is unsubstantiated conjecture.

With regard to the petitioner's remuneration, counsel argues that the petitioner's salary must only *equal*, rather than *exceed*, that of others at the top of the field. This is a reasonable assertion, but the petitioner has not established that her pay places her at the top of the field. As noted above, the petitioner's annual earnings exceed the 90<sup>th</sup> percentile according to one set of statistics, but other statistics included in the petitioner's own submission place the 90<sup>th</sup> percentile at over \$93,000, more than half again the petitioner's top annual earnings of under \$62,000. This information is, arguably, irrelevant, because the absence of a specific wage code for contortionists does not empirically establish that contortionists and actors are in the same "field." The burden is on the petitioner to establish that she is among the nation's most highly paid contortionists, whether or not the petitioner is able to locate information to meet that burden.

Counsel claims, on appeal, that the petitioner has satisfied a heretofore-unclaimed criterion:

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

Counsel notes that witness letters and award certificates refer to the petitioner's "contributions" to the art of contortion. The awards have been duly noted, above. To say that these awards are self-evident proof of contributions of major significance is to indicate that satisfaction of one criterion implies satisfaction of a second one, which negates the purpose of distinct evidentiary criteria. A "contribution" is not necessarily an "original contribution of major significance in the field," and the letters and certificates do not identify any specific contribution or contributions. Therefore, counsel's arguments in this regard are not persuasive.

Beyond the evidentiary criteria, counsel observes that former First Lady Hillary Clinton, now a United States Senator, posed for a photograph with the petitioner during a visit to Mongolia. The photograph is a "group photo" showing ten individuals standing behind Sen. Clinton, who is seated in the foreground. The record contains nothing from Sen. Clinton to offer her interpretation of the significance of the event, or to indicate that it differed significantly from routine "photo opportunities" with prominent political figures.

Counsel cites witness letters attesting that the petitioner is among the greatest, if not the greatest contortionist in Mongolia. This assertion would carry more weight if supported by a very substantial quantity of objective documentation, rather than relying on letters written specifically for this petition, by witnesses whom the petitioner has chosen. Furthermore, the petitioner is no longer in Mongolia. The petitioner has not established that whatever acclaim she may have earned in Mongolia has followed her to the United States. Certainly, her employment by Cirque du Soleil indicates that hers is

no small talent, but this does not necessarily reflect acclaim, especially when we consider that her coach at Cirque du Soleil studied under the same teacher as the petitioner.

The record demonstrates that the petitioner won awards and acted as a judge in her native Mongolia. The remaining evidence, however, relies on unproven inferences, unpersuasive arguments, and the like.

The record does not indicate that the petitioner has earned any significant acclaim in the United States, despite having worked here intermittently since mid-1998, four years before she filed the petition in July 2002. While the record contains some impressive elements, on the whole it does not support the conclusion that the petitioner has earned national or international acclaim and sustained that acclaim through the petition's filing date.

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 herself as a contortionist to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner's achievements consistently set her significantly above almost all others in her field at a national or international level. 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.