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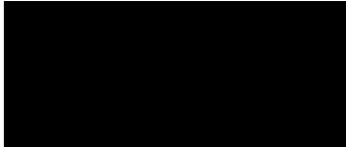
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U.S. Department of Homeland Security

Citizenship and Immigration Services

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



File: WAC-02-083-52719

Office: California Service Center

Date:

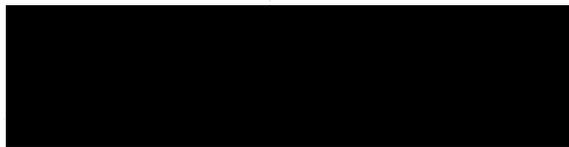
DEC 24 2003

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.

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.

On appeal, the petitioner asserts that he is submitting new documentation to clarify the record. The evidence submitted, however, consists almost entirely of copies of previously submitted documentation already considered by the director. We will consider the entire record below.

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 CIS 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 a sculptor and Chinese calligraphy stamp cutter. 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, 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 City of Monterey Park bestowed honorary citizen status upon the petitioner in recognition of his beach sculptures in 2001 as contributions promoting goodwill and cultural exchange. In 2000, the petitioner won first prize of the Grand "Thousand Dragon" Beach Sand Sculpture Competition sponsored by the Associates of Qingdao Beach Culture. In 1999 and 1997 the petitioner won third and fifth prize respectively at the "Land & Planning Cup" Beach Sand Sculpture Competition sponsored by the Qingdao City Land Administration Department. In 1998 and 1996 the petitioner won second and third prize respectively at the Qingdao "Planning Cup" Beach Sand Sculpture Competition sponsored by the Associates of Qingdao Beach Culture. In 1998, the petitioner won the "encourage prize" in the Beach Sand Sculpture Inviting Competition sponsored by the Activities Commission of Culture and Tour Week, Huangdong District Commission of Qingdao. In 1992 and again in 1993, the petitioner won first prize in the Penmanship and Calligraphic Seal Cutting Competition sponsored by the Society of Chinese Calligraphers. The petitioner also submitted evidence of youth prizes. Finally, the petitioner received an "honorable prize" in the International Cultural Exchange Exhibition sponsored by the Japanese Penmanship College. Neither the certificate nor the translation indicates a date. The petitioner lists this award as acquired in 1993 on his resume.

In 1990, the petitioner won second prize in the First Chinese "Zhengwengong Cup" Penmanship and Painting Competition. The petitioner submitted the invitation for this competition issued to the petitioner. According to the uncertified translation, the invitation states (grammar as it appears in the translation):

The committee of appraisal invited by this Competition is constituted by all authorities of arts circles and crafts publishing circles publishes of our country, therefore this is a high-level and unprecedented in scale Penmanship & Painting competition.

The address of the organizing committee, however, is Qingdao City.

The petitioner submitted Chinese-language documents accompanied by uncertified translations, some of which are nearly unintelligible, as evidence of the significance of the above competitions. While the materials relating to the Zhengwengong Cup attest to the prestige of the judges, the record does not indicate whether the competition was open to artists outside Qingdao City or Shandong Province. According to the translation, one of the judges states: "'Zhengwengong stele' is one of Chinese Excellent cultural property which has very high value of research. Because the stele is located in Qingdao, it's why this competition was being held here." The translation does not define "stele" and the only definition in the dictionary relates to a plant stem. Thus, we cannot evaluate this statement.

Regarding the Grand Thousand Dragon, the International Beach Culture Association of Qingdao asserts that "both the judges and the artworks were selected carefully and recognized internationally." This statement is ambiguous as to whether the artists themselves came from outside Shandong Province. There is no supporting evidence to establish that the prizes are recognized outside Shandong Province, such as national or international media coverage of the competition.

Another translation asserts that the 1997 Competition of Beach Sand Sculpture "has been actively joined and supported by the whole national arts colleges and youth societies and especially joined by Shanghai Road Primary School in Northern District and Jiayuguan Road Primary School in Southern District." Once again, this statement is ambiguous and does not establish that schools or youth societies from across China participated in the event. Moreover, it does not establish that professional artists from across China competed against the petitioner.

The petitioner did not submit evidence relating to the significance of his other awards. The evidence does not establish that the petitioner won awards recognized outside of Shandong Province or Southern California.

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 submitted evidence of his membership in the Research Union of Qingdao Worker Calligraphers. The petitioner also submitted a member payments list for the Chinese Calligraphy and Painting Society of the Chinese Artists Society of U.S.A. indicating donations of between \$20 and \$300. The petitioner is listed as having donated \$30. The petitioner also submitted his membership card for the society. This evidence does not establish that these associations require outstanding achievements of their 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 what appear to be published and broadcast materials in the Chinese-language media in California. The petitioner also submitted an untranslated article about himself that appeared in the November 16, 2001 issue of *Edi City Magazine*, which appears to be a Chinese-language magazine based in Southern California. A summary of these materials indicates that the *Merit Times* has a circulation of 15,000 and that the *International Daily News* and the *Singdao News* both have a circulation of 20,000. The petitioner submits no evidence to support these assertions. The petitioner has not established that these newspapers, published in a language that the majority population cannot comprehend, constitute major media.

A September 10, 1998 issue of the *Qingdao Daily News* reported on the closing of the 1998 Arts Festival of Qingdao Beach Culture and listed the petitioner as a prizewinner. The article, however, is not primarily about the petitioner. The record also contains several copies of pages from *Qingdao*

Textile Newspaper displaying the petitioner's calligraphic seals and paintings. The petitioner did not provide translations of any of these pages. A summary of these publications indicates that the *Qingdao Daily Newspaper* has a circulation in Qingdao City of 36,000 and that *Qingdao Textile Newspaper* has a circulation of 75,000. The petitioner has not established that either publication has a circulation outside of Shandong Province. Thus, these publications cannot be considered major media.

The petitioner also claimed to have appeared on Chinese television in 1998 before 13 million viewers. The International Beach Culture Association of Qingdao asserts that the petitioner "was invited to Beijing in the 'Zhongyi Dagan' of 168 episode of the Central Chinese Television Station in 1998" as a representative of Qingdao. The association continues that the broadcast "caused very strong repercussion for improving the cultural communication in the world and for bringing great function on the Chinese tourist industry." The record contains no evidence from Central Chinese Television regarding the significance of this broadcast. The petitioner also failed to submit a transcript of the show.

Finally, the petitioner did not comply with the plain language of the regulation, as the petitioner did not submit complete certified translations of the published material.

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 submitted a 1981 certificate from the Associates of Huangdao Golden Beach Sand Sculpture appointing the petitioner as a judge for their first competition. The record is absent evidence to establish the significance of this competition. We note that the competition is local to Qingdao City. As discussed above, the evidence strongly suggests that the petitioner's recognition in China is limited to the Qingdao area. As such, without further evidence, we cannot conclude that judging a competition in Qingdao is indicative of national or international acclaim.

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

In 2001, the Chinese Artists Society of U.S.A. invited the petitioner to participate in a sand sculpture exhibition in California and issued him a certificate of honor and congratulations for his participation. The petitioner has also exhibited his work at the competitions discussed above. Finally, the petitioner submits photographs of two large outdoor sculptures he purportedly created for display on the streets of Qingdao.

It is inherent to the field of visual arts that an artist display his work. The petitioner has not established the significance of the above exhibits. Even if we were to conclude that the petitioner meets this criterion, it is only one criterion. For the reasons discussed above and below, the petitioner has not established that he meets any other criterion.

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

The petitioner submitted evidence that he was appointed as a consultant for 1-800 Only One in Los Angeles and senior consultant for Qingdao Million-Trade Co., Ltd., for which he also served as general manager according to other documents in the record. In addition, the petitioner was a standing director for the Association of Qingdao Beach Culture. The petitioner did not submit any evidence relating to the nature of these roles or to demonstrate that these entities enjoy a distinguished reputation nationally.

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

The petitioner submitted a certificate of salary issued by Qingdao Million Trade Co., Ltd. indicating that the petitioner earned 6,000 RMB per month during his employment at a senior consultant. The petitioner also submitted an untranslated individual income tax withholding returns stamped by Qingdao Million Trade Co., Ltd. As stated by the director, without evidence of other salaries in the petitioner's field, the petitioner cannot establish that his salary was higher than others in the same 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 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 a sculptor 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 sculptor, 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.