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Bureau of Citizenship and Immigration Services

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

File: [REDACTED] Office: California Service Center

Date:

JUL 18 2013

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:

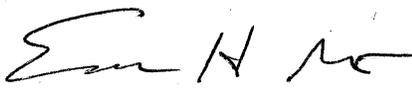
INSTRUCTIONS:

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 Bureau of Citizenship and Immigration Services (Bureau) 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.

It is noted that the petitioner was initially represented by attorney Lynn Chao. Ms. Chao will be referred to herein as the petitioner's former counsel, or previous counsel. References simply to "counsel" will refer to the petitioner's current attorney of record, who submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, on appeal

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 as a journalist. The director determined the petitioner had not established that she has earned 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 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, filed on April 23, 2002, seeks to classify the petitioner as alien with extraordinary ability as a journalist. The petitioner submitted a letter from her employer stating that she has been working in the "News Department of the Provincial Broadcasting Station for Economy of Hai Nan Province of

China since September 1992.” 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 submitted two certificates with accompanying translations stating that she has received the following awards from the “General Office for National Radio, Movie and TV Services”:

“First Award of the 1994 News and Broadcast Award of the China News Awards on Radio and TV”

“First Award of the 1998 News and Broadcast Award of the China Newscast Awards on Radio and TV”

The petitioner submitted three translated certificates with accompanying translations stating that she has received the following awards from the “China Association for Radio and TV”:

“Second Award for Newswriting of the 1995 Radio Awards for Economy Broadcasting”

“First Award of the 1996 Broadcast Awards of the National Radio for Economy”

“First Award for Newswriting of the 1997 Radio Awards for Economy Broadcasting”

The petitioner has not submitted evidence to establish the degree of recognition accorded to the above awards. Section 203(b)(1)(A)(i) of the Act, however, requires extensive documentation of sustained national or international acclaim. Pursuant to the statute, the petitioner must provide sufficient evidence to establish that her awards enjoy significant national or international stature. It has not been shown through contemporaneous, first-hand evidence that the awards were significant beyond the context of the event at which they were presented. We note, for example, the absence of national or international media coverage about the petitioner's awards at the time they were received.<sup>1</sup>

<sup>1</sup> The record contains two Chinese language articles (accompanied by incomplete English language translations) about the petitioner appearing in *China Talents* in October 2000 and *Chinese Journalists* in May 2001. It is noted that these articles were published years after the petitioner received her awards. A letter from *Chinese Journalists* states that that publication seeks to “introduc[e] and advertis[e] our remarkable colleagues.” The question necessarily arises as to why a journalist who claims to have already earned sustained national acclaim would need introduction or advertisement as recently as May 2001 (less than one year prior to the petition's filing date). These articles will be further addressed under a separate criterion.

Furthermore, the petitioner offers no documentation detailing the criteria used for selecting winners or indicating the number of other recipients.

In sum, the petitioner has failed to establish that she has received journalistic awards representative of significant national or international acclaim.

*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 documentation of her individual membership status in the

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, a fixed minimum of education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion because participation, employment, education, experience, test scores and recommendations do not constitute outstanding achievements. In addition, memberships in associations that evaluate membership applications at the local chapter level would not qualify. It is clear from the regulatory language that members must be selected at the national or international, rather than the local, level. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The documentation provided by the petitioner fails to show that membership in the above associations required outstanding achievement in journalism or that she was evaluated by national or international experts (rather than provincial or regional members) in consideration of her membership.

*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. An alien would not 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 submitted incomplete "summary" translations of two articles appearing in *China Talents* (October 2000) and *Chinese Journalists* (May 2001). By regulation, any document containing foreign language submitted to the Service shall be accompanied by a full English

language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). Without complete translations, it cannot be determined whether the petitioner was featured because of her extraordinary achievements as a journalist. The articles, both written by Wang Genan, resulted from the same interview and appear to be identical in content. One-time media attention such as this is hardly indicative of sustained national acclaim.

The record contains no independent, objective documentary evidence (from sources such as media guides, for example) to establish the national distribution of the above publications. An unsigned letter, written by an unidentified author and bearing the seal of *Chinese Journalists*, states that that publication is a "homestead for journalists to exchange opinions, and has taken pride in introducing and advertising" Chinese writers.

Another unsigned letter, written by an unidentified author and bearing the seal of *China Talents*, states that that publication is a semi-monthly magazine "established by [the] All-China Homecoming Overseas Chinese Union." In describing readership reaction to the published article about the petitioner, the letter states: "[R]eaders expressed their hearty opinions and sincere admiration about [the petitioner's] devotion... They all wished she would become an eminent journalist and writer of world fame in the near future." Similar statements portraying the petitioner as a "promising" young journalist appear throughout the record. This evidence supports the director's conclusion that the petitioner has not yet risen to the very top of her field. The petitioner in this case seeks a highly restrictive visa classification, intended for aliens already at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time.

We find that the evidence presented fails to demonstrate that the petitioner has been the subject of sustained major media coverage.

*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.*

In an occupation where "judging" the work of others is an inherent duty of the occupation, such as a coach, instructor, teacher, professor or editor, simply performing one's job related duties demonstrates competency, and is not evidence of national or international acclaim. Instead, the petitioner must demonstrate that her sustained national or international acclaim resulted in her selection to serve as a judge of the work of others. Similarly, the competition or contest must be on a national or international level and involve accomplished professionals in the petitioner's field.

Prior counsel asserts that the petitioner satisfies this criterion through her participation in the First China Internet Literary Creation Prize (1999), First China Model Contest on the New Silk Road (1999), 2001 Globalization Forum, and International Wedding Ceremony at the Edge of Sky and Sea-China Sanya (2001). Documentation describing the First China Internet Literary Creation Prize indicates that this contest was organized by Fudan University to "encourage young people's

literary activities on the internet.” The director’s decision noted the absence of evidence indicating that these events involved the petitioner’s evaluation of professionals in her field of endeavor.

On appeal, we note that counsel does not dispute the director’s finding pertaining to this criterion. Our review of the petitioner’s supporting evidence reveals no documentation showing that any of the events listed above involved judging accomplished professional journalists at the national or international level.

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

The petitioner submitted several witness letters in support of the petition [redacted] states:

[The petitioner] is a gifted outstanding young woman journalist. I also agree that she is a young writer full of great potentials.

\* \* \*

I think she is one of the youngest writers that should be nurtured for the sake of her great potentials. I believe [the petitioner] will have a bright future for her literary creation.

An unsigned letter written by an unidentified individual from the All-China Journalists Association (“ACJA”) states: “The ACJA and the mass media in China have noted [the petitioner’s] outstanding accomplishment and great potentials, and many colleagues believe she will be nurtured to be and she will be a journalist of worldaide importance [sic].”

An unsigned letter from [redacted] states that the petitioner “has great potential and will become a journalist of worldwide fame and a writer of changing power.”

Also submitted were two letters from unnamed individuals identified only as “Initial Director of Xinhua Agency” and “General Editor of *People’s Daily*.” These letters have identical first paragraphs and additional passages with very similar wording. It is not clear who is the actual author of the common passages, but it is highly improbable that both individuals independently formulated the exact same wording. It is acknowledged that these unnamed officials have possibly lent their support to this petition, but it remains that at least one of these individuals did not independently choose the wording of his/her letter.

The overall tone of the witness letters suggests that the petitioner, while a talented journalist, is not yet widely recognized for major contributions to her field. The issue here is not the skill level, professional experience, or educational qualifications of the petitioner, but, rather, whether any of her past accomplishments would qualify as a contribution of major significance in the journalism field. In this

case, there is no evidence showing the extent of the petitioner's influence on other writers. Witnesses' assertions that the petitioner is a "promising journalist" with "great potential" do not establish eligibility, for the regulations clearly call for evidence that the petitioner already enjoys national or international acclaim. Even if it were unanimously agreed that the petitioner would one day reach such a level, this visa classification is reserved for those already at the top of their field, not for those who are expected eventually to reach that level.

Section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim. Evidence in existence prior to the preparation of this petition would carry greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce ample unsolicited materials reflecting that acclaim.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

Current and former counsel both argue that the articles presented by the petitioner would satisfy this criterion. The plain wording of the regulation, however, calls for the alien's authorship of "scholarly" articles and we find that the petitioner's articles do not meet this requirement. Furthermore, because the petitioner is a journalist, the fact that her work has been published in magazines and periodicals is not indicative of national or international acclaim. Given that publication is inherent to her profession, the petitioner must submit evidence to significantly distinguish her articles from those of the vast majority of other capable journalists. Finally, it has not been shown through independent evidence (such as media guides) that the magazines and periodicals featuring the petitioner's articles would qualify as major national media.

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

In order to establish that she performed in a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of her role within the entire organization or establishment and the reputation of the organization or establishment.

An unsigned letter from an unidentified individual from the All China Journalists Association (ACJA) states that the petitioner "has been the youngest director of the fifth-term ACJA." The letter further states: "The fifth-term acting committee [of the ACJA] is made up of invited directors and the 400 directors that were elected by government agencies and the members of the 214 bodies from the news agencies..." Therefore, according to the letter from the ACJA, this association had more than 400 other "directors" serving in the same capacity as the petitioner. It has not been shown that the petitioner's role was any more important in the ACJA than that of the 400 plus other fifth-term directors.

Prior counsel asserts that the petitioner satisfies this criterion through her participation in the First China Internet Literary Creation Prize (1999), First China Model Contest on the New Silk Road (1999), 2001 Globalization Forum, and International Wedding Ceremony at the Edge of Sky and Sea-China Sanya (2001). The examples cited, however, are one-time events rather than "organizations or establishments."

The fundamental nature of this highly restrictive visa classification demands comparison between the alien and others in the field. The regulatory criteria describe types of evidence that the petitioner may submit, but it does not follow that every journalist whose work has been published in magazine, or who holds membership in a professional association, is among the small percentage at the very top of the field. While the burden of proof for this visa classification is not an easy one to satisfy, the classification itself is not meant to be easy to obtain; an alien who is not at the top of his or her field will be unable to submit adequate evidence to establish such acclaim. This classification is for individuals at the rarefied heights of their respective fields; an alien can be successful, and even win praise from well-known figures in the field, without reaching the top of that 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, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States. In this case, the petitioner has failed to demonstrate that she meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished herself as a journalist 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 set her significantly above almost all others in her field at the 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.