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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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

PUBLIC COPY

[redacted]

File: WAC 01 283 53346 Office: California Service Center Date: MAR 11 2003

IN RE: Petitioner:
Beneficiary: [redacted]

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:

[redacted]

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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 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. 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 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 August 14, 2001, seeks to classify the petitioner as an alien with extraordinary ability as an editor-in-chief/journalist. At the time of filing, counsel indicated that the petitioner was employed by *Xinmin Evening News*, "an evening newspaper with the longest history (since 1929) and largest circulation (over 1.8 million) in China."[1] The regulation at 8 C.F.R. §

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[1] Information provided by the petitioner from A Guide for Advertising on Chinese News Media (1996) indicates that *Xinmin Evening News* has a circulation of 1.2 million.

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 received a 20th Century Achievement Award at the "Southern Atmosphere Chinese News Media International Meeting" in Melbourne, Australia (2000). Information from the China National Journalist Union states that "[r]epresentatives from sixty-eight news organizations in the world attended this event" and that the petitioner received the "highest honor" awarded at the meeting. Additional information regarding the significance of the 20th Century Achievement Award appeared in several newspaper articles.

The petitioner provided an award certificate stating that the China National Journalist Union voted him among the "Ten Outstanding Young Journalists of 1991." We note here that the competition for this award was limited to those under thirty-five years old, thereby excluding more experienced journalists from consideration.

The petitioner also provided evidence showing that he was awarded first prize in 1991 and 1993 at the "All China Evening Paper News Contest" sponsored by the China National Journalist Union. Supporting documentary evidence indicates that "68 evening papers participated in the contest" and that the judges included the editors-in-chief of newspapers from throughout the country, presidents of various universities, and the Chairman of the China National Journalist Union.

We find that the evidence provided by the petitioner satisfies this criterion.

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.

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, a membership in an association that evaluates its 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 petitioner provided evidence of his membership in the Chinese National Journalist Union and the Shanghai Journalist Association. It has not been shown that membership in these organizations require outstanding achievement in journalism or that the petitioner was judged by national or international experts in consideration of his 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 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. Some newspapers, such as the *New York Times*, nominally serve a particular locality but they qualify as major media because of significant national distribution, unlike small local community papers.

Counsel argues that the petitioner's entry into the Dictionary of Chinese Professionals, Volume VII satisfies this criterion. According to its editors, the minimum requirement for entry into this immense registry of professionals (consisting of over six hundred pages) is the receipt of a national award. According to the translation provided, a few brief paragraphs about the petitioner's career appear on page 621. The petitioner has not shown that this registry enjoys significant national or international distribution.

Eight Chinese language newspapers in various cities throughout the United States (such as Chicago, New York and Washington, D.C.) ran an identical article about the petitioner winning the "20th Century Achievement Award." Because the vast majority of U.S. readers do not read or speak Chinese, these newspapers are too limited in their scope to be considered major media. Far more persuasive would have been evidence showing that the petitioner was prominently featured in the *Chicago Tribune*, *New York Times*, or *Washington Post*. The record contains no such evidence and does not reflect that the petitioner has attracted the sustained attention of the national press or major media in the United States.

The petitioner submitted translations of articles and published pieces about the petitioner, his published works and news reporting appearing in the *People's Daily*, *Liberal Daily News*, *Wenhui Journal*, *Library Journal*, *Xinmin Evening News*, and *Shanghai Post News*. The petitioner also provided evidence showing that the publications featuring those articles enjoyed significant national distribution in China. While a few of these articles only briefly mention the petitioner, we find that the petitioner's remaining articles satisfy this criterion.

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

Beyond his newspaper articles for *Xinmin Evening News*, the petitioner submitted evidence that he published several scholarly articles and books in the field of journalism. As noted under the previous criterion, the petitioner's published works have garnered attention from major Chinese media. We further note that the petitioner has provided evidence indicating that at least two universities' journalism programs have adopted the petitioner's editing layout method as a required course. Counsel states that the petitioner's editing layout method is used by "more than 100 of China's evening papers," but the source of this information has not been provided. Nevertheless, the petitioner's evidence satisfies this criterion.

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

The petitioner provided evidence verifying his employment activities for *Xinmin Evening News* over the last twenty years. The record adequately establishes that *Xinmin Evening News* is a news organization with a distinguished reputation. The record further reflects that the petitioner played a leading or critical role for the organization through his documented achievements as a news reporter, editor, special columnist, and Vice President overseeing the start-up and daily operation of *Xinmin Evening News*'s U.S. operations. Thus, the petitioner's evidence satisfies this criterion.

The petitioner states that it is his intention to start a Chinese language newspaper in the United States. Given his prior experience in this area, it is reasonable to conclude that he will continue to work as a journalist/editor and remain employed in his area of expertise. The director's decision questioned the petitioner's ability to prospectively benefit the United States, stating: "Readership of such a newspaper is limited to the [Chinese] expatriate community and does not represent 'national' coverage that can contribute to national benefit." The regulations, however, do not specify any fixed standard for prospective benefit. We note here that there is a significant Chinese population throughout the U.S. and counsel has provided reasonable arguments on appeal to address the potential benefits of the petitioner's work. The petitioner in this matter has demonstrated that his prior accomplishments have earned him acclaim at the national level in China and that he plans to continue this work in the United States.

In this case, the petitioner has satisfied more than three of the lesser regulatory criteria required for classification as an alien of extraordinary ability. 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.