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U.S. Citizenship and Immigration Services

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[redacted]

APR 13 2004

FILE: WAC 03 011 51038 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
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:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center. The petition is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the petition will be remanded for further action and consideration.

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 sciences. The director determined the petitioner had not established the sustained acclaim necessary to qualify for classification as an alien of extraordinary ability.

In evaluating the petitioner's evidence submitted in support of several of the criteria, the director determined that the petitioner had not established that the petitioner's acclaim was "world-wide." For example, when evaluating the petitioner's contributions of major significance to the field, the director determined that the petitioner had made a significant contribution to his country, but that the contribution could not be considered major because his vehicle is not well known outside of China. In evaluating the petitioner's role in organizations with a distinguished reputation, the director determined that "[n]o evidence has been provided that would indicate he has performed in a leading or critical role for an organization or establishment that has a distinguished reputation and could be considered known world-wide."

This is an erroneous interpretation of the statute and regulation. Section 203(b) of the Act states that aliens of extraordinary ability in the sciences, arts, education, business, or athletics who have demonstrated sustained national or international acclaim may be eligible for visa preference classification. The statute does not state that individuals in certain fields of endeavor are required to demonstrate international acclaim. The term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documentation to establish that an alien has sustained national or international acclaim in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The regulation does not imply that sustained acclaim in some fields of endeavor must be met at the international level. By requiring the petitioner to establish sustained international acclaim, the director imposes a standard higher than that set by statute, and applies the criteria more narrowly than the regulation requires.

Therefore, this matter will be remanded for consideration of the evidence in accordance with the statute and regulation. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision, which, if adverse to the petitioner, is to be certified to the AAO for review.