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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: APR 14 2004

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, 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 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.

This petition seeks to classify the petitioner as an alien with extraordinary ability as an artist. 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, she 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's diploma project received first prize from the Lebanese Academy of Fine Arts in 1987. In response to the director's request for additional documentation, the petitioner submitted a letter from [redacted] Director of the academy, asserting that awards are given annually to the best diploma projects in every department. Mr. [redacted] explains: "The purpose is to encourage excellent quality of art and to introduce the

award winner's art pieces to the nation by advertisement in the nationally known newspapers, magazines and national television networks." Mr. notes that a representative of the Ministry of Higher Education and Fine Arts presides over the jury panel judging these awards. The petitioner also received a private grant at the same competition.

The director noted that the petitioner was a student when she won her awards and concludes that she had not established that the entity issuing the award "can be classified as distinguished and possess a notoriety within the public's eye" such that the award is "considered prestigious and is coveted."

On appeal, counsel asserts that the Lebanese Academy of Fine Arts is "a highly recognized cultural society." The petitioner submits a letter from Editor-in-chief of *Navasart Monthly Magazine* based in Glendale, California. He attests to the reputation of the Lebanese Academy of Fine Arts based on his work with teachers who had graduated from the academy while a principal at the Noubarian School in Beirut. The petitioner also submits Internet materials about the academy.

While the director implied that the reputation of the academy was at issue, the real question is whether the award issued to the petitioner is one open to all artists nationwide regardless of experience and for which the most experienced artists aspire to win. While the academy may be distinguished and the award selections garnered some media attention, it is clear that the petitioner won a student award limited to graduating students at one academy. A student award for which the petitioner did not compete against the most experienced artists nationwide cannot be considered evidence of national acclaim or that the petitioner is one of the very few at the top of her field nationwide. Moreover, the petitioner won the award in 1988, 14 years before the date of filing. Thus, without other evidence of acclaim proximate to the date of filing, it cannot be considered evidence of sustained 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 a letter from Dr. President of the Lebanese Association of Painters and Sculptures, asserting that the petitioner has been a member since 1993 and that the association "requires 3 years of active high quality experience in the field of art." The director concluded that the record lacked evidence of the official membership requirements. On appeal, the petitioner submits her membership certificate for the Lebanese Association of Artists, Painters and Sculptures.[1]

We concur with the director that the petitioner has not established that she meets this criterion. The record contains no evidence of how "active high quality experience" is defined and judged. Three years of experience in one's field, even successful experience such that the petitioner is able to make a living in her field, is not an outstanding achievement.

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[1] Counsel references the name as the Association of Artists, Painters and Sculptors. The letterhead of the organization on the letter from Dr. however, reflects that the official name is the Lebanese Association of Artists, Painters and Sculptures.

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 a 1992 article in *Al-Doualiya* discussing two Paris exhibits featuring the work of 38 Lebanese artists. The petitioner is one of seven artists interviewed for the article. The petitioner also submitted 1997 articles published in the Lebanese publications *Regards, Sayidaty, Monday Morning, Aztag, Tidag (Scope)* and *L'Orient-Le Jour* focusing on the petitioner and her exhibit of 60 works at the Lebanese Academy of Fine Arts. Another 1997 article in *Society* focuses solely on the petitioner and her career in general. The petitioner further submitted 1988 articles in *Al-Nahar, L'Orient-Le Jour* and *La Revue du Liban* relating to the awarding of grants and awards to students at the Lebanese Academy of Fine Arts. While the petitioner is mentioned in these articles, the articles are primarily about the grants and awards, not the petitioner herself. The petitioner submits an unsigned document asserting that *La Revue du Liban* is a weekly newspaper distributed in Lebanon, France and the Middle East; *L'Orient le Jour* is a daily newspaper distributed in Lebanon and the Middle East; and *Al Nahar* is a daily newspaper distributed in Lebanon, France, Europe and the Middle East. At the bottom of the translation of the *Aztag* articles are assertions that it is an Armenian daily newspaper.

The director concluded that the petitioner had met this criterion. We will not overturn that conclusion, although we note that the most recent articles were in 1997, five years before the filing date of the petition. The regulations require sustained acclaim up until the date of filing.

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 letter from President of the Academy of Fine Arts asserting that the petitioner was "a member of the jury to several painting contests held in Lebanon." The director concluded: "A judge in painting contests does not establish that the [petitioner's] artistic ability would be considered outstanding in the world of artists." The materials submitted on appeal do not address this criterion. We concur with the director that the petitioner has not established the nature of the competitions she judged. Thus, we cannot conclude that these duties are indicative of or uniquely consistent with national or international acclaim.

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

The record contains letters offering general praise of the petitioner's artistic skills from faculty at the Lebanese Academy of Fine Arts, the Lebanese Minister of Youth and Sports, and Seeroon Yeretzian, Owner of the Roslin Art Gallery in Glendale, California. The director concluded that the testimonials were insufficient to meet this criterion as they did not place the petitioner at the pinnacle of her field. We concur insofar as the references do not provide specific examples of contributions made by the petitioner and explain how those contributions have influenced the field of art.

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

As stated above, the petitioner submitted newspaper articles confirming her participation in two exhibits in Paris in 1992 and a 1997 exhibit at the Lebanese Academy of Fine Arts. She also submitted a Ministry of Culture and

Higher Education certificate of appreciation for her exhibit at the Art House of Tarabulus in Tripoli, and an El-Mina Municipality certificate of appreciation for another exhibit in 1999. In additio President of the Rochane Galerie d'Art in Lebanon, asserts that the petitioner sold her work at the Fifty Years of Armenian Artists in Lebanon Exhibition in November 2000. Finally, the petitioner submitted a resume listing other exhibits in 1986, 1987, 1988, 1989, 1995, and 2002.

The director concluded:

> There is no indication in the record of the length of time the [petitioner's] exhibits were shown at each exhibition. Merely submitting a resume with the year and place of artistic exhibitions does not establish that the beneficiary is one of the small percentage who have reached the very top in her field of endeavor.

On appeal, counsel asserts that the petitioner was unable to exhibit her work during some years due to the political situation in Lebanon.

The evidence submitted to meet each criterion must be analyzed to determine whether it is indicative of or uniquely consistent with national acclaim. Every artist, in order to make a living in her field, must display her work for sale. The petitioner's 1992 exhibit in Paris and her 1997 exhibit in Lebanon appear to have garnered media attention. Even if we concluded that the petitioner meets this criterion, however, she would only meet two criteria. For the reasons discussed above and below, however, she falls far short of meeting any other criteria. Moreover, the petitioner has not demonstrated the national significance of any exhibitions after 1997. Thus, without evidence of acclaim relating to any criterion proximate to the date of filing in 2002, we cannot conclude that the record demonstrates her sustained acclaim.

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

According to a letter from the Regional Committee of Lebanon, in 1999 the petitioner sold at least seven paintings at the Toros Roslin Academy exhibition for between $2,000 and $6,000. According to the letter from Mr. Bahadrian, in 2000 the petitioner sold several works for between $2,200 and $4,300 at a Lebanese exhibition. The director concluded that the evidence was insufficient to establish that the paintings were actually sold for those amounts. Neither counsel nor the petitioner's submissions on appeal address this criterion. We concur with the director that the petitioner does not meet this criterion. Even if the petitioner had demonstrated that her paintings sold for the amounts claimed, the record contains no evidence regarding the typical prices for art by the most acclaimed artists in Lebanon. Thus, we cannot determine whether the prices claimed by the petitioner are comparable with prices for art by nationally acclaimed artists in Lebanon.

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 an artist 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 indicates that the petitioner shows talent as an artist, but is not persuasive that the petitioner's achievements set her significantly above almost all others in her 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.