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U.S. Citizenship and Immigration Services

B2

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: MAR 04 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, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

We note that part 1 of the Form I-140 petition identifies [redacted] as the petitioner. Nevertheless, the alien beneficiary personally signed the petition form, and on part 5 of the form, indicated "self" under "additional information about the petitioner." There is no indication that [redacted] which shares the alien's address, has any employees. For all practical purposes, the alien beneficiary is also the petitioner and we shall refer to him as such.

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 petitioner is a sculptor. 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 pertinent regulations 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.

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 which, 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 documents his receipt of a number of awards, which appear to be local or otherwise limited in nature, presented by local governments or businesses rather than by recognized national or international bodies. The petitioner appears to have won an award at the National Juvenile Competition of Plastic Arts in 1983, when the petitioner was 19 years old. The range of competitors was limited to artists between the ages of 17 and 21.

Most of counsel's claims under this criterion do not pertain to actual prizes or awards at all. For instance, counsel notes that the petitioner's sculpture "Gloria" was "selected as the sculpture for the Lifetime Achievement Award of the International Chicago Latino Film Festival." The use of the petitioner's work as the award statuette is not, itself, an award, and the petitioner does not establish that his design of the sculpture has contributed to sustained national or international acclaim. Counsel also discusses the selection of the petitioner's sculpture "Maternidad" for an art festival in Spain. Counsel has not shown that participation in the festival is a prize or award, nor does the record show that the petitioner won any actual prize or award at the festival. The display of the petitioner's work at the festival would fall under a separate category, pertaining to artistic exhibitions, to be discussed further below. Similarly, participation in a competition is not a prize or award, nor is acting as the curator for an exhibition, although counsel lists these, too, under awards. The petitioner has not shown that his grants and commissions are generally recognized as awards or prizes, rather than, in effect, paid employment.

The director requested further evidence, stating "[o]ther than an honorable mention in a local competition in 1999, the evidence does not establish that you have received any prizes or awards for excellence in sculpting other than those limited to young sculptors which you won in the 1980s." In response, counsel repeats the assertion that "the selection of [the petitioner] as the sculptor to create the Life Time Achievement Award for the Chicago Latino Film Festival is a national and international award." The assertions of counsel do not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Creation of the statuette may be a prestigious commission, but there is no documentary evidence to indicate that the art community considers this commission to be a prize or award. There is also no evidence that the "Gloria" statuette is widely recognized outside of the Hispanic community in Chicago.

Counsel adds that "in 2001, [the petitioner] received the Luis Gutierrez Diaz Award in Spain based upon a national juried competition." The awarding entity is based in the petitioner's native city, and several members of the jury are educational or governmental officials of that city. Documentation in the record states that the 10,000-euro "scholarship award" is presented annually to "a sculptor of national and international character," but the petitioner has submitted no independent evidence to show that this scholarship award is nationally or internationally recognized.

> *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.*

Counsel states that the petitioner satisfies this criterion "as a member of Buckham Gallery in Flint, Michigan. This Gallery is a prestigious gallery that is dedicated to providing exhibition and performance space for contemporary fine art and artist[s]." The petitioner submits no documentation to establish that this gallery represents an association in the field, rather than a sort of local business cooperative "bringing contemporary arts to mid-Michigan" (as its letterhead states). The petitioner has also not shown that membership in the gallery requires outstanding achievements as judged by recognized national or international experts.

The director instructed the petitioner to "submit the membership criteria for the Buckham Gallery." In response, the petitioner submits a letter from the gallery's president and other documentation about the gallery. Counsel contends that the gallery's board of directors, which votes on membership applications, is composed entirely of

recognized national or international experts, but this claim is unsubstantiated. The documentation establishes only that the board of directors consists primarily of artists who hold degrees from universities in Michigan.

Darryl Baird, president of Buckham Gallery, repeats the already-documented finding that the gallery's purpose is "the presentation of . . . art to the Flint area community," which underscores the local character of the organization. Mr. Baird also indicates that the gallery has no paid staff, and therefore "[i]ts program is developed and implemented by its artist-members who serve as volunteers." Given that the artist-members are responsible for the day-to-day operation of the gallery, these individuals must all reside in the Flint area. While the gallery, like any gallery, has certain standards of quality for the art it shows, there is no indication that the gallery requires outstanding achievements as judged by national or international experts, or that the gallery views the petitioner as having national or international acclaim. Rather, his work "is a significant contribution and welcome addition to the art scene in Mid-Michigan." The gallery's by-laws state "[a]n artist member shall be either a practicing artist of demonstrated high achievement . . . or a person who . . . demonstrates a strong potential for such achievement." "Strong potential" is not an outstanding achievement. Therefore, even if we make the unfounded assumption that "high achievement" is synonymous with "outstanding achievement," such achievement is not a definitive requirement for membership.

Nothing in the record indicates that the Buckham Gallery is a national or international association, rather than a local, volunteer artists' cooperative.

> *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 submits a letter showing that the petitioner "was featured in Telemundo local morning, prime time and late night news programming . . . when his statuette 'Gloria' was selected by the Chicago Latino Film Festival." Local television coverage cannot establish national or international acclaim, unless the petitioner can show local coverage over a broad variety of locales and thus establish, in the aggregate, national coverage.

For the same reason, the newspaper articles in the record do not show national or international acclaim. In the United States, the petitioner has attracted local coverage in The *Flint* [Michigan] *Journal* and in two Spanish-language newspapers published in Chicago. The petitioner has not shown that the *Journal* or *Exito* represent major media at a national level; together, they represent coverage in two cities in the Great Lakes region, and the Chicago coverage is in a language not spoken by a majority of residents of the region.

The English-language articles are reviews or previews of local exhibitions, which amounts to routine coverage rather than a rare privilege extended only to the nation's best-known artists. Some of the Spanish-language articles are from *La Rioja*, the petitioner's hometown newspaper, which the petitioner has not shown to be a national or international publication. Another newspaper, *La Raza*, lists two cover prices, 25¢ in Chicago and 50¢ in the suburbs, with no indication of wider circulation. Collectively, the Spanish-language articles reflect a single burst of publicity in Chicago (and in the petitioner's Spanish native city of Logroño) surrounding the petitioner's design of the "Gloria" statuette, rather than sustained national or international acclaim.

Beyond the above newspapers, counsel cites "trade journals and special publications." One such document is a catalog or guide to an art exhibition in Seville, rather than a circulated publication. There does not appear to be anything "about the alien" in this catalog except for a photograph of one of his sculptures. Another document, entitled *Art + Soul 1999*, appears to be a program handed out a fundraising event at which the petitioner and other artists were honored; an introductory message begins "[t]onight is a celebration for Lawyers for the Creative Arts.

We welcome you to our Art + Soul Benefit." Again, this is not published media, but a souvenir program distributed to the attendees of a single, local event.

The director found the above materials to be insufficient, and requested further documentation. In response, counsel states that the required materials have already been submitted.

> *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.*

Counsel states that the petitioner meets this criterion because he acted as curator of the "Art of Iberoamerica" exhibition held in Chicago for five weeks in late 1996. Cristina Vallina, Argentina's Consul General for Chicago, describes the exhibition and the petitioner's role therein:

> The Art of Iberoamerica was an exhibition of art sponsored by the Association of Consulates of Iberoamerica in Chicago, Instituto Cervantes, the Mexican Cultural and Educational Institute of Chicago, the Chicago Cultural Center, the Chicago Latino Cinema and many other institutions. . . . In selecting a curator for this exhibition, they searched for an artist with the necessary experience, expertise and outstanding reputation in order to bring the finest curatorial judgment to the exhibition. They selected [the petitioner] based on his outstanding reputation and expertise. There are many Hispanic artists in Chicago, but none with the kind of international reputation as an outstanding artist such as [the petitioner].
>
> As curator, [the petitioner] was given complete responsibility and discretion to select the artists who would participate and which works would be exhibited. . . . The Exhibition was a truly international exhibition with artists selected from Mexico, Central and South America and Spain.

The above letter does not specify whether the artworks shown were gathered from the regions named, or else collected from Chicago-based artists of Hispanic origin or descent. The latter would give a decidedly local character to the event. The petitioner submits a brochure from the exhibition, including profiles of the featured artists. The profiles indicate that the artists live, work, or study in Chicago; one artist "returns every year to Chicago." The only profiles that do not mention Chicago are those that do not identify where the artists reside or work.

Another witness, Ariani A.G. Friedl, coordinator for Intercultural Programs at the University of Illinois at Chicago (UIC), states "I have organized and established the first ART of IBEROAMERICA EXHIBIT in the City of Chicago which was held in our UIC campus in 1997." It appears that this "Art of Iberoamerica" exhibit, held at UIC in 1997, was a completely different event from the "Art of Iberoamerica exhibit held at the Chicago Cultural Center in 1996. Neither Cristina Vallina's letter nor the 1996 exhibition brochure contain any mention of UIC. Ms. Friedl's reference to the 1997 UIC event as "the first ART of IBEROAMERICA EXHIBIT in the City of Chicago" suggests that she was unaware of the exhibition of the same name that had taken place in Chicago just a few months earlier. If the 1996 exhibition went unnoticed by art experts in the same city, then it is very difficult to conclude that the exhibition was an event of national or international significance.

The director concluded that "[s]erving once as a curator over five years ago for a local six-week exhibit is not sufficient to meet this criterion." In response, counsel states that the petitioner "has been a curator or judge of other artists' works MORE THAN ONCE. Although, I do not believe that the regulations state that this criteria has a certain number of times that it must occur before it is satisfied." The petitioner's initial submission mentioned only one instance of acting as a judge, and given that evidence, the director cannot be faulted for failing to presume other, unmentioned instances. Furthermore, the issue is not so much that Art of Iberoamerica

represents only one instance of judging; rather, the event was "local" in nature, representing the work of Chicago artists.

As additional evidence of judging, counsel cites the petitioner's membership in the Beckham Gallery, on the grounds that all of the gallery's "artist-members" participate in the selection of new members. The petitioner has not shown that this reflects national acclaim, or differs in any meaningful way from the selection process at countless other local artist-run groups.

Counsel also observes that the petitioner has served as an "artist-consultant and collaborator with Tallas Olse," which is "a company in Spain dedicated to the creation and restoration of wooden carvings and sculptures." Counsel states that the petitioner "design[s] his own works in wood, discuss[es] it with the other artist in the studio and judge the work of those artist [sic] to perfect these designs using their artistic abilities." This activity does not constitute judging, indicative of sustained acclaim. Every supervisor or collaborator "judges" the work of subordinates or peers in a comparable fashion.

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

Counsel contends that several of the petitioner's sculptures stand as major artistic contributions. The director, in the notice of decision, accepted this claim, but upon closer inspection of the record we cannot concur.

Pepe Vargas, executive director of the International Latino Cultural Center of Chicago, discusses the petitioner's "Gloria":

> [The petitioner] is an artist of incredible talent and is clearly qualified to be considered one of the sculptors at the very top of his profession. [The petitioner's] work is so rare, so beautiful and so profoundly elegant that we were very proud to have his sculpture "Gloria" as the award originally created for the Chicago Latino Film Festival's Lifetime Achievement Award.
>
> I founded The Chicago Latino Film Festival 18 years ago and it has grown into one of the country's largest film festivals. When we considered giving an award for lifetime achievement, we knew it would have to be a special award that would be crafted by a well known and preeminent sculptor. We investigated many artists and finally discovered the talent and beauty of [the petitioner], a well known artist from Spain. . . .
>
> "Gloria" is truly "the pinnacle of success and splendor, the highest recognition of excellence," and we only chose this award because of its true brilliance.

Whatever importance Mr. Vargas attaches to "Gloria," the record does not show that the sculpture is recognized nationally or internationally as an original contribution of major significance. The record shows only that the piece has received publicity within Chicago's Latino community.

The director informed the petitioner that further evidence would be necessary. The director, in denying the petition, asserted that the petitioner's response is sufficient to satisfy this criterion. Upon further review, however, we find that the evidence is consistent with local, rather than national or international acclaim.

In that response, counsel states that "[e]xperts and commentators in the field have recognized [several] works made by [the petitioner] as being original artistic contributions of major significance." The initial submission

contained numerous letters, but these letters offered minimal discussion of specified works by the petitioner. Counsel states that a witness' testimony should not be diminished by the fact that the witness personally knows the petitioner; however, if the standard is acclaim at a national or international level, it cannot suffice simply to show that the petitioner's patrons, friends and collaborators admire his work.

Beyond arguments about "Gloria," already discussed above, counsel asserts that the petitioner's sculptures "El Caminante," "Maternidad," and "Fin de un Llanto" represent qualifying contributions. Counsel observes that the last two named sculptures are now in private collections. There is nothing inherent in the act of selling or donating a sculpture that conveys acclaim on the artist or significance on the artwork. While local consulates were involved in the donation transactions, the activities that transpired were local to Chicago.

A tourism web site for the Spanish city of Vitoria-Gasteiz states that the town plaza includes "dozens of sculptures," and indicates that "El Caminante" "is on its way to becoming one of the city's hallmarks." The site does not identify the petitioner as the sculptor or even offer the vague indication that the creator of "El Caminante" is a prominent artist. Furthermore, a sculpture that is well-known within a single city is not demonstrative of acclaim at the national or international level. The record does not indicate that the sculpture draws a significant number of tourists who would otherwise not visit Vitoria-Gasteiz, or that any of the petitioner's sculptures have attained widespread recognition.

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

The director concluded that the petitioner meets this criterion. Further review of the record, however, casts doubt on this finding. The record documents several solo and group shows and exhibitions of the petitioner's work in the Chicago and Flint areas, and the petitioner's participation in a group exhibition in Seville, Spain. The petitioner has not established that any of these events attracted national or international attention. Rather, they contribute to the general sense that the petitioner's reputation is heavily concentrated in Flint and Chicago. Certainly, the petitioner has shown his work, but the very act of displaying one's work does not elevate an artist above the great majority of other artists. The record lacks evidence that the petitioner's exhibitions have been more prominent than the many other exhibitions underway at any given time in any sizeable city.

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

The petitioner did not initially claim to have satisfied this criterion. Subsequently, counsel has contended that the petitioner's work as an "artist-consultant and collaborator" at Tallas Olse constitutes a leading role for that company. That company's president, Jose Luis Olse, does not indicate that the petitioner has a leading role there; rather, Mr. Olse indicates that the petitioner visits occasionally to participate in the restoration of wood pieces. The record also contains nothing to establish the distinguished reputation of Tallas Olse.

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

Counsel asserts that the petitioner's "annual income is approximately $35,000 to $40,000," and that "[t]his figure is high in relation to other artist[s] in the field." The petitioner submits a statement indicating that the "level 2" prevailing wage for sculptors in the Chicago area is $30,098 per year. Another document indicates a level 2 prevailing wage in the same area of $35,485 per year, within the range of the petitioner's claimed annual earnings. Fine artists in New York earn the comparable sum of $35,714 per year, while artists in the New Orleans area earn only $21,570. It is because of these variations that regional or local figures are unacceptable. The standard is national or international acclaim, rather than regional or local acclaim.

The record contains no tax returns or other documents to confirm that the petitioner does, in fact, earn the amount claimed. Furthermore, because the petitioner does not earn a regular salary, a prevailing wage statement (apart from being strictly local) is of little value. The petitioner has not shown that his sculptures routinely command higher prices than comparable works (similar in size, materials, etc.) by other sculptors. A gallery's price list of the petitioner's sculptures is not compelling evidence, for a number of reasons. It is not clear whether the prices represent prices of works actually sold, or asking prices for unsold works. Furthermore, while the list shows prices for sculptures by other artists, there is not sufficient information about the other works to allow a meaningful comparison.

The director instructed the petitioner to submit specific evidence, such as tax returns and documentation of sales of high-priced items. In response, the petitioner submits an affidavit, in which he states that he has never reported any income from the sales of his sculptures because he was never advised that this was necessary. The petitioner also submits a series of certificates, in which he attests to the prices commanded by several of his works, and to the identities of the purchasers. The petitioner's own after-the-fact claims cannot constitute proof as the petitioner claims. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The statute demands "extensive documentation" of sustained acclaim, a standard which the petitioner cannot meet simply by offering his personal assertion that his sculptures command high prices.

Beyond the evidentiary criteria, the petitioner submits several witness letters. A number of these letters amount to little more than general praise for the petitioner's work, or indicate that the petitioner's present reputation is primarily local. Indeed, the very scope of the witness letters is telling; all of the witnesses in the United States are based either in Chicago or in Flint. Considering that the record indicates that the petitioner has been sculpting in the United States for over ten years, this limited scope is highly relevant to the question of whether the petitioner has earned *sustained* acclaim as the statute and regulations demand.

One letter, signed by Gregory D. Fiedler, executive director of the Greater Flint Arts Council, states "[b]efore coming to the United States in 1992, [the petitioner] was an accomplished artist of national and international renown." Mr. Fiedler does not state that the petitioner has maintained this level of recognition during more than a decade in the United States. Rather, he states that the chancellor of the University of Michigan-Flint had sought Mr. Fiedler's assistance "to advance [the petitioner's] reputation as an artist in our community." He does not indicate that he had any knowledge of the petitioner's work before this solicitation.

Michael A. Martinez, branch manager of First Financial Mortgage Consultants, Inc., states that the petitioner "has already made an impact on the artistic scene in Chicago and Michigan, and as he develops his craft, [the petitioner] is poised to be a major force in American sculpture for decades to come." This statement is wholly consistent with a growing, but still mainly local, reputation. The witness letters overall fit the general pattern of acclaim largely confined to Flint and Chicago.

The petitioner has submitted further letters in response to the director's request for further evidence. New witnesses include the petitioner's former teachers; artists and art dealers in Chicago and the petitioner's native city of Logroño, Spain; patrons who have purchased or commissioned works from the petitioner; and dealers who sell the petitioner's work. These letters, while highly complimentary, show only that the petitioner's work is admired by those with whom he has had personal or professional dealings. The only witnesses who are not said to have an existing relationship with the petitioner are in the Chicago area, consistent with the petitioner's undisputed local recognition in that city.

The petitioner also submits background information about deceased sculptors Henry Moore and Constantin Brancusi, whose work some witnesses compare to the petitioner's sculptures. The record does not indicate that the petitioner has reached a stature that begins to approach the reputations of either of these well-known artists.[1]

The director denied the petition, concluding that the petitioner had met only two of the ten criteria listed at 8 C.F.R. § 204.5(h)(3), as discussed above. On appeal, the petitioner submits a brief from counsel and additional letters. Counsel argues that the director should have afforded more weight and credibility to the witness letters. The central issue is not one of credibility. As discussed above, these letters do not establish acclaim or recognition beyond those who have dealt directly with the petitioner, and the art community in Chicago. Counsel acknowledges these relationships, but asks "[h]ow else would an expert know the abilities of a person . . . if it were not for the pre-existing relationship?" The answer to this rhetorical question lies in the petitioner's own submissions. The petitioner has submitted considerable information about Moore and Brancusi, sculptors who have been dead for years but whose work still inspires admiration and discussion even among art enthusiasts who never met them. Counsel's rhetorical question implies that it is impossible for experts to know the abilities of Michelangelo, Houdon, or Praxiteles, because no one now survives who had "pre-existing relationships" with those legendary sculptors of past centuries. If knowledge of the petitioner's work is largely restricted to those who have worked with him, then it is axiomatic that the petitioner does not enjoy acclaim on a national or international scale.

Counsel continues to maintain that the petitioner's creation of a statuette for a Chicago film festival constitutes a "prize," on the grounds that different artists competed for the commission to produce the statuette. This construes an unacceptably loose definition of a "prize." Actors compete for roles by audition, and even high school students compete for admission to prestigious colleges, but this does not mean that every Ivy League student or employed actor has won a "prize." Furthermore, the petitioner has still not established that the national or international art community recognizes the design of the statuette to be a prize or award. The evidence of record similarly fails to establish the significance of the petitioner's "scholarship" described above.

Counsel takes issue with the director's assertion that the regulations call for more than one prize or award, stating that such a requirement "is not explicitly stated in the regulations." The regulation in question refers

[1] The petitioner's background materials regarding Brancusi and Moore derive from the World Wide Web. Using the popular Google search engine (http://www.google.com), the AAO searched for the names of Brancusi, Moore, and the petitioner (both with and without the accent mark in his surname), in conjunction with the words "sculptor" and its Spanish equivalent "*escultor*." For the petitioner and Brancusi, only the surnames were used; Henry Moore's full name was used because Moore is a common surname. The results were as follows:

| | | | |
|---|---|---|---|
| "Henry Moore" + sculptor | 8,900 hits | "Henry Moore" + *escultor* | 622 hits |
| Brancusi + sculptor | 6,010 hits | Brancusi + *escultor* | 826 hits |
| Eguizabal + sculptor | 2 hits | Eguizabal + *escultor* | 22 hits |
| Eguizábal + sculptor | 3 hits | Eguizábal + *escultor* | 12 hits |

Of the five English-language hits for the petitioner's name, three are on the web site of the Latino Cultural Center, which is under contractual obligation to credit the petitioner by name when it discusses its "Gloria" award. Of the two remaining hits, one is coincidental and has no relevance to the petitioner. Similarly, not all of the 34 Spanish-language hits pertain to the petitioner.

The above results are not readily consistent with the claim that the petitioner is among the best-known or most highly acclaimed sculptors in the United States or his native Spain.

not to "a prize or award," but rather "prizes or awards," plainly plural nouns. Furthermore, the regulation refers to "the alien's receipt of . . . prizes or awards," demonstrating that one single given alien must have received prize*s* or award*s*. Therefore, the director's interpretation is defensible.

Regarding the director's finding that the Buckham Gallery does not require outstanding achievements of its members, because membership is also available on the basis of "potential," counsel accuses the director of "splitting hairs." Still, the evidence confirms that outstanding achievement is not a requirement of membership. Counsel offers no rebuttal to the director's finding that the gallery is a local artists' organization rather than a national or international association.

Counsel offers several similar arguments on appeal, asserting that the petitioner's work with local Chicago cultural organizations, Flint art galleries, and former employers in Spain constitute hallmarks of national or international acclaim.

The petitioner submits new witness letters, specifically indicating that the petitioner is "one of the best sculptors in the world." Pursuant to the "extensive documentation" requirement in the statute, we can hardly accept a small quantity of such letters (when the petitioner could hardly be expected to submit unfavorable letters) when all of the objective, documentary evidence in the record points to a primarily local reputation. Apart from letters that the petitioner has solicited specifically for the purposes of this petition, the record offers little indication that the petitioner's work inspires the breadth and depth of discussion and interest attracted by top sculptors. The mass of evidence submitted regarding other prominent sculptors amply demonstrates that a top sculptor's reputation can be solidly established without reliance on letters from clients and friends.

Upon careful consideration of the voluminous record of proceeding, we cannot find that the petitioner has satisfied any of the ten evidentiary criteria set forth at 8 C.F.R. § 204.5(h)(3). The petitioner has achieved some vaguely-defined level of success in Spain, and has built a solid following in Chicago and Flint, but the record does not demonstrate that the petitioner is nationally or internationally acclaimed as a top artist. Counsel's attempts to redefine crucial terms such as "awards" and "associations" are not persuasive.

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 is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a 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.