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U.S. Citizenship  
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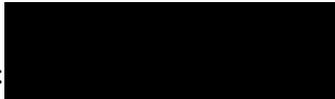


Office: VERMONT SERVICE CENTER

Date: SEP 01 20

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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

*Mari Johnson*

 Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The employment based immigrant visa petition was denied by the Director, Vermont 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 field of expertise are set forth in the 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 earned sustained national or international acclaim at the very top level.

This petition, filed on November 29, 2002, seeks to classify the petitioner as an alien with extraordinary ability as a "Chinese Peking Opera Actor." The statute and regulations require the petitioner's acclaim to be sustained. The record reflects that the petitioner has been residing in the United States since 1998. Given the length of time between the petitioner's arrival in the United States and the petition's filing date, it is reasonable to expect the petitioner to have earned national acclaim in the United States during that time. The petitioner has had ample time to establish a reputation as a performer in this country.

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 pertaining to 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 certificates reflecting that he received the following awards:

1. New Sprout Instructor Award in the City of Tianjin's New Sprout Teenage Instrumental Music Competition (1989)
2. Peking Opera Solo Award in the Third Art Festival of Shenyang City (1991)
3. Plum Blossom Prize of Traditional Chinese Opera (1991)
4. Traditional Opera Singing Pattern Award for performance in the Peking Opera "Egret Fairy" in the Fourth Art Festival of Shenyang City (1994)
5. Award for performance in the Peking Opera "The Fourth Son Visits Mother" at the First Joint Show of the Secondary Art School in Hubei Province (1995)
6. Excellent Performance Award in the Peking Opera [REDACTED] at the Peking Opera Joint Show of Shandong Province (1995)
7. First Prize of "Double Phoenix Cup" Peking Opera Young Performer Contest of Shandong Province (1999)
8. Flushing, New York 2000 Millennium Award at the Community Sidewalk Festival sponsored by the Chinese Business Association and the Korean American Association of Flushing, New York
9. Distinguished Artist Award from the Chinese Theatre Workshop (2001)

The preceding awards are reflective of local, institutional or provincial, rather than national or international, recognition.

The petitioner also submitted a certificate stating that he was granted the "Excellent Wu-Sheng Award" in the 1998 National Peking Opera Performer Contest." The record, however, contains no information about this contest or evidence showing that the petitioner's award enjoys significant recognition beyond the context of the event where it was presented. Also provided was a certificate indicating that a play in which the petitioner participated, "Thirteen Taobao," won an "Excellent Performance Award in the National Traditional Opera Joint Show of 1997." It has not been shown, however, that this show is nationally recognized or that the petitioner played a leading role in the play.

The significance and importance of the preceding awards are not self-evident. Simply receiving an award certificate with the word "national" in the title does not satisfy this very restrictive criterion. The petitioner must provide evidence to establish that his awards enjoy significant national or international stature. In this case, the record contains no documentation from the awarding entities or print media to establish the level of recognition associated with the petitioner's awards. Furthermore, the petitioner offers no documentation detailing the criteria used for determining the winners or the number of other recipients. Finally, in regard to the two local awards presented to petitioner in this country during the past six years, we note that neither is adequate to demonstrate that he has sustained whatever acclaim he earned in China subsequent to his 1998 arrival in the United States.

*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, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion because participation, employment, education, experience, and recommendations do not constitute outstanding achievements. In addition, membership in an association that evaluates its membership applications at the local or provincial 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.

Documentation accompanying the petition included evidence of the beneficiary's membership in the Liaoning [REDACTED] World Association of Beauty Culture (New York), Dramatist Association of Liaoning Province, and Association of Chinese Artists. The petitioner's "Second-Class" membership grade in the Association of Chinese Artists and the Dramatist Association of Liaoning Province suggests that his level of achievement does not place him among the top level of performers in those associations.

Aside from the fact that three out of four of the above associations appear to be local or provincial, rather than national or international, the record contains no evidence of their bylaws or membership requirements to demonstrate that they require outstanding achievement in the performing arts. Assertions from the petitioner regarding the exclusive nature of their membership requirements are not adequate to satisfy the "extensive documentation" requirement for this classification set forth at section 203(b)(1)(A)(i) of the Act. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

In view of the foregoing, it has not been established that the petitioner's membership in the above organizations required outstanding achievement or that his admission to membership was evaluated by experts at the national or international level.

*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 he performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment.

In addressing this criterion, the petitioner states that he "was appointed associate general manager of affiliated 'External Performing Company' by leaders of [the] [REDACTED] in January 1996." The petitioner, however, has provided no evidence to support this assertion (such as an official letter

of appointment or documentation outlining the petitioner's duties). *See Matter of Treasure Craft of California, supra*. The petitioner also states that he "is the pillar performer for the programs of the troupe." The record, however, contains no published reviews of the petitioner's performances to support this assertion. It has not been established that the petitioner's role in the troupe is any more critically acclaimed than that of the other performers. Nor does the record adequately demonstrate that the Liaoning Province Peking Opera Troupe, which the petitioner claims was "established in 1981," has earned a distinguished reputation when compared to other Peking Opera Troupes throughout China. Therefore, we find that the petitioner's evidence falls short of establishing that he has performed in a leading or critical role for a distinguished organization, or that his involvement has earned him sustained national or international acclaim.

For the reasons discussed above, the record is ambiguous regarding the petitioner's acclaim throughout his native China, and there is no evidence showing that the petitioner has sustained whatever acclaim he earned in China since his 1998 arrival in the United States. The fundamental nature of this highly restrictive visa classification demands comparison between the alien and others in his field. The regulatory criteria describe types of evidence that the petitioner may submit, but it does not follow that every performer who has appeared on stage, or who has received some degree of recognition at the local or provincial level, 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 field will be, by definition, 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. The petitioner in this case has failed to demonstrate that he 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 himself as a performer 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.