



U.S. Citizenship
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invasion of personal privacy

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FILE:

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Office: NEBRASKA SERVICE CENTER

Date:

AUG 11 2005

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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)

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, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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. 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 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 September 18, 2003, seeks to classify the petitioner as an alien with extraordinary ability as a management scientist. At the time of filing, the petitioner was working as a Visiting Scholar at Ohio State University. 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 September 2000. 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 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.

We note here that the plain wording of this criterion requires “nationally or internationally recognized” prizes or awards for excellence in the field. The burden is on the petitioner to demonstrate the level of recognition and achievement associated with his awards.

The petitioner submitted an award certificate indicating that he received a “Voice of the New Century Award (Class II), in recognition of his research paper entitled ‘Collectively Running Companies as a Possible Livelihood for Laid-Off Workers.’” In support of this award, the petitioner submitted partial translations of his “Notice of Selection” for the Voice of the New Century Award and of a listing of the “essay competition” award criteria. According to item 5 of the essay competition award criteria, “The ‘Voice of the New Century Award’ Competition Review Board will present winners with Special, First-Class, Second-Class, Third-Class, and Excellence awards.” Aside from the multitude of honors available, we note that the petitioner received a “Second-Class” award, indicating a lesser degree of recognition than those recognized at the “Special” or “First-Class” levels. Furthermore, we cannot ignore that the majority of the information pertaining to the award criteria was omitted from the English language translations. For example, items 1, 2, 3, 4, 7, 8, and 9 were omitted from the translation of the essay competition award criteria. Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to Citizenship and Immigration Services (CIS) shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator’s certification that he or she is competent to translate from the foreign language into English. The petitioner’s incomplete translation of the information related to the Voice of the New Century Award essay competition does not meet the requirements of 8 C.F.R. § 103.2(b)(3). Without a complete translation of this information, we cannot conclude that the petitioner’s “Second Class” award represents a significant national honor.

Section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. The record lacks crucial information regarding the total number of awards bestowed under each of the five categories cited above, the total number of entrants in the contest, the essay competition’s complete entry requirements, the criteria used in determining recipients under each particular category, and the level of media coverage associated with “Second Class” award presentations. Large-scale competitions typically issue official results naming the winners from each competitive category. In this case, there is no evidence showing a complete listing of winners for each of the five award categories cited above. The evidence presented here is not adequate to establish that the petitioner’s “Second-Class” award enjoys significant national stature.

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, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. In addition, it is clear from the regulatory language that members must be selected at the national or international level, rather than the local or regional level. Therefore, membership in an association that evaluates its membership applications at the local or regional chapter level would not qualify. 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 submitted evidence of his membership in the Chinese Society of Building Materials Industry and Economics, The Mid-West Chinese Science and Culture Association, and the U.S.-China Association of Business Cultural Exchanges Society of the Study of Human Nexus. There is no evidence showing that membership in these organizations required outstanding achievement in the petitioner's field or that he was evaluated by national or international experts in consideration of his membership. The record contains no evidence to establish that the preceding organizations require outstanding achievement of their members in the same manner as highly exclusive associations such as the U.S. National Academy of Sciences.

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 or international distribution. An alien would not earn acclaim at the national or international 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 would qualify as major media because of significant national distribution, unlike small local community papers.¹

The petitioner submitted evidence of the inclusion of a brief profile about himself appearing in voluminous biographical directories such as *Who's Who in the World: Outstanding Professionals*, *A Dictionary of Chinese and Foreign Celebrities*, *Who's Who in Contemporary China*, *Encyclopedia Sinica of Outstanding and Talented Chinese*, *China's Reservoir of High-Caliber Manpower*, *Who's Who in China: Contemporary Talents*, *Who's Who: World Personages*, *Dictionary of Chinese Professionals*, *Scientific Chinese – Talents' Bank of Chinese Experts*, and *Who's Who in the World – China*. Publications of this size, with such a limited portion devoted to the petitioner, appear to be more of a comprehensive directory than a special form of recognition limited to an elite few. For example, we note that the petitioner's brief entry appears on page 1072 of *Dictionary of Chinese Professionals* and page 686 of *Who's Who in the World – China*. Furthermore, the

¹ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual's reputation outside of that county.

incomplete translations of the petitioner's specific entries are not in compliance with the regulation at 8 C.F.R. § 103.2(b)(3). We also note that the petitioner's brief entry in each of these directories appears to be identical (according to the partial translations). We cannot conclude that the petitioner's limited and repetitive entry into such sizable tomes would constitute qualifying published material about the petitioner and his work. Finally, the petitioner provides no quantitative evidence regarding the volume of distribution of the preceding publications to establish that they qualify as "major media."

In response to the director's request for evidence, the petitioner submitted two online commentaries about the petitioner's work appearing on the internet on the *China Enterprise News* website and at *www.chinapr.com.cn*. This is not qualifying "published" material in the major media. There is no quantitative evidence of substantial national readership.

The petitioner submitted a captioned photograph of himself appearing in the March 20, 2004 issue of *World Journal*, a Chinese-language newspaper published in the United States. The petitioner also submitted an article from the *China Press* (published in New York) dated September 19, 2003 and an article from *China Building Materials News* dated November 22, 2003. Aside from not being accompanied by complete translations in compliance with the regulation at 8 C.F.R. § 103.2(b)(3), we note that these publications came into existence subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); see *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971).

The petitioner also submitted incomplete translations of additional articles appearing in *Sino Times* and the *Ohio Chinese-American News*. In regard to the articles appearing in Chinese-language newspapers published in the United States, there is no indication that these publications have a substantial national readership beyond Chinese language readership in a few U.S. cities. There is no quantitative data regarding their volume of U.S. readership. Because the overwhelming majority of the U.S. population does not read or comprehend Chinese, it has not been shown that an article appearing in such publications constitutes published material in the "major media."

We find no evidence to support the conclusion that the petitioner has been the subject of sustained major media attention.

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.

As previously noted, the regulation at 8 C.F.R. § 204.5(h)(3) provides that "a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Evidence of the petitioner's participation as a judge must be evaluated in terms of these requirements. For example, evaluating the work of accomplished professors as a member on a national panel of experts is of far greater probative value than evaluating students at one's university.

The petitioner submitted a partially translated letter from the China International Interchange Press, publisher of *Who's Who in the World – China*, inviting the petitioner to "serve as Special Advisory Member of the Editorial Board of *Who's Who in the World – China*." The letter further states: "We thank you and welcome you to

continue your recommendations of people for inclusion in our directory. . . . Those you recommend for inclusion will receive notification one by one.” This letter is unsupported by first-hand evidence showing that the petitioner actually participated as a judge of the work of others in the field of management science (or an allied field). Furthermore, issuing recommendations or referrals of individuals to be included in a frequently published directory of professionals is not evidence of national acclaim.

The petitioner also submitted a partially translated letter from *Discovery*, a reformist magazine published in China, notifying the petitioner of his appointment to Vice Chairmanship of its Board of Directors. The record, however, contains no quantitative evidence regarding the distribution volume of this publication, or specific evidence of the petitioner’s “participation . . . as a judge of the work of others.”

In response to the director’s request for evidence, the petitioner submitted a letter from Ligu Wang, Editor-in-Chief of *Liao-Yuan Magazine*, “an electronic magazine in Chinese,” stating the petitioner is a member of the online magazine’s editorial board. The record, however, contains no quantitative evidence of this online publication’s readership. Nor is there any first-hand evidence of the petitioner’s specific activities as an editorial board member prior to the petition’s filing date. 8 C.F.R. § 103.2(b)(12); see *Matter of Katigbak* at 45, 49.

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

The petitioner submitted evidence of his authorship of a book entitled The Human Nexus: From East to West. The record, however, contains no evidence showing that this book enjoys a substantial national readership as a particularly significant work. For example, there is no quantitative evidence indicating the number of copies sold. In regard to the petitioner’s articles, there is no evidence showing that they appeared in major media. Nor is there evidence establishing that they are widely viewed throughout the petitioner’s field as significantly influential.²

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 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 the 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.

² Numerous independent citations would provide firm evidence that other scholars have been influenced by the petitioner’s work and are familiar with it. If, on the other hand, there are few or no citations of an alien’s work, suggesting that that work has gone largely unnoticed by the greater field, then it is reasonable to conclude that the alien’s work is not nationally or internationally acclaimed.

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.