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**U.S. Citizenship
and Immigration
Services**

BA

[Redacted]

FILE:

[Redacted]
EAC 05 142 51071

Office: VERMONT SERVICE CENTER

Date: **DEC 21 2005**

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:

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.

Maif Johnson

S 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. 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 she has earned sustained national or international acclaim at the very top level.

This petition, filed on April 16, 2005, seeks to classify the petitioner as an alien with extraordinary ability as a "Ceramist." 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 August 2001. 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 her to have earned national acclaim in the United States during that time. The petitioner has had ample time to establish a reputation as an artist 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 a certificate allegedly issued by the "Australian High Commission" stating: "IN THE FIRST ART CRAFTS SHOW HELD BY AUSTRALIAN HIGN [sic] COMMISSION IN 2000, YOUR WORK OF 'FEMALE' HAVE [sic] BEEN AWARDED THE BEST FINE DESIGNING [sic] WORK." Aside from the misspelling of "high," this certificate includes two grammatical errors. There is no evidence demonstrating that this show actually took place or that the petitioner's work was featured there. The exact date and location of this show have not been identified. Nor has the petitioner submitted evidence of an art brochure from the show or media publicity surrounding the event.

The petitioner also submitted a certificate allegedly issued in 2001 by the "NATIONAL ARTS GALLERY" stating that she was recognized as "The Best Artist of The Year (Sculpture Group)." The bottom of the certificate includes a signature space marked "SIGNED:," but no signature appears in this blank space. The petitioner fails to offer an explanation for the omission of an official signature.

The petitioner also submitted an undated certificate that states:

THE NATIONAL ART AWARD

THIS CERTIFICATE IS HONOURLY AWARDED TO [the petitioner] FOR HIS CONTRIBUTION [sic] IN PROMOTING TRADITIONAL ART BY DEPARTMENT OF CULTURE

Aside from the misspelling of "contribution," this certificate incorrectly refers to the petitioner as a male. Further, we note that although the wording on the certificate is completely legible, for some inexplicable reason, the Department of Culture seal is completely illegible.

Regarding the multiple deficiencies related to the preceding certificates, it is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition.

The petitioner also submitted a certificate allegedly issued by the "THE PRIVATE GALLERY FINE ARTS" stating that the petitioner received a "CERTIFICATE OF APPRECIATION" in 1996. The petitioner does not explain how receiving a "CERTIFICATE OF APPRECIATION" constitutes recognition for excellence in ceramics. Further, this award reflects institutional recognition rather than national or international recognition.

In response to the director's notice of intent to deny, the petitioner submitted a "CERTIFICATE OF EXCELLENCY" allegedly issued in 2000 by the "NATIONAL ARTS DEVELOPING ASSOCIATION,

SINGAPORE.” The certificate bears a computerized signature from “GUO CHEN, SECRETARY.” The petitioner also submitted an undated certificate allegedly issued by the “Asia-Europe Foundation Philippine Association” for “BEST ARTIST IN SPREADING CULTURE AND ART.” There is no evidence showing that these awards reflect national or international recognition rather than organizational recognition.

The petitioner also submitted a “CERTIFICATE OF ACHIEVEMENT . . . 1997 National Arts Design Award.” The organization that issued this award, however, has not been identified. There is no documentation from the awarding entity or the print media to establish that this award is a nationally or internationally recognized award for artistic excellence.

Simply receiving an award certificate with the word “national” in the title does not satisfy this very restrictive criterion. We note here that section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. Pursuant to the statute, the petitioner must provide adequate evidence to establish that her award certificates enjoy significant national or international stature. The record includes no such documentation. Furthermore, there is no evidence showing that the petitioner has received any awards subsequent to February 2001; therefore, whatever prior level of acclaim she had previously earned has not been sustained.

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

The petitioner submitted sixteen images of what are alleged to be her artistic creations. Without further evidence, it cannot be determined that the petitioner’s works are among those shown. Nevertheless, the plain language of this criterion requires the petitioner to provide evidence demonstrating that her work has been displayed “at artistic exhibitions or showcases.” In this case, the specific names and locations of the exhibitions and showcases that featured the petitioner’s works have not been identified. In fact, there is no contemporaneous evidence (such as an event program or art brochure) demonstrating the petitioner’s involvement in any art exhibition or showcase in the U.S., Malaysia, or any other country.

We find no evidence demonstrating that the petitioner’s works have been displayed at significant national venues. Nor is there any indication that the petitioner’s works have been featured along side those of artists who enjoy national or international reputations. Furthermore, the petitioner has not demonstrated her regular participation in shows or exhibitions at exclusive venues devoted largely to the display of her work alone.

On appeal, the petitioner submits what she alleges is her “Diploma from Institute of World.” Aside from being unaccompanied by a certified English language translation as required by the regulation at 8 C.F.R. § 103.2(b)(3), there is no indication that this diploma fulfills any of the regulatory at 8 C.F.R. § 204.5(h)(3).

In this case, the petitioner has failed to demonstrate that she 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 herself 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 is not persuasive that the petitioner’s achievements set her

significantly above almost all others in her 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.

Beyond the decision of the director, the regulation at 8 C.F.R. § 204.5(h)(5) requires “clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States.” The record contains no such evidence.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*. 345 F.3d 683 (9th Cir. 2003); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.