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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUN 02 2005

IN RE: Petitioner: [REDACTED]
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.

Mari Johnson

sa Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center. The decision is now before the Administrative Appeals Office upon certification by the director. The decision will be affirmed.

The petitioner sought 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 response to the director's Request for Evidence (RFE), the petitioner submitted a letter informing the legacy Immigration and Naturalization Service (INS) of his new address:

The petitioner's address was updated. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability and denied the petition. The petitioner appealed the director's decision. The petitioner's Form I-290B lists the same address that he previously submitted. The Administrative Appeals Office (AAO) issued an order withdrawing the director's decision and remanding the case to the director for further action and entry of a decision to be certified to the AAO regardless of outcome. The director subsequently issued a Notice of Intent to Deny (NOID). That notice was mailed to the petitioner at the address, but was returned with the envelope marked "Addressee Unknown. Attempted - Not Known." No further correspondence from the petitioner was received. The director then denied the petition and certified his decision to the AAO for review. A notice of certification and two transfer notices were sent to the petitioner, but were also returned to the California Service Center.

Section 265(a) of the Act, 8 U.S.C. § 1305(a), requires aliens such as the petitioner to notify United States Citizenship and Immigration Services (CIS) in writing of any change of address within ten days. This statutory requirement is further specified in the regulations at 8 C.F.R. § 265.1. Hence it is the alien's responsibility to keep CIS informed of any change of address. In this case, the record contains no further address change for the petitioner since his response to the RFE dated July 16, 2001. The last correspondence received from the petitioner is the Form I-290B that states his address as being the same as that in his July 16, 2001 response, namely, The director received no response to the NOID and accordingly denied the petition for the reasons stated in the notice. The petitioner has apparently moved, but has not informed CIS of his new address as required by statute.

Section 203(b) of the Act states, in pertinent part:

(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 into the United States will substantially benefit prospectively the United States.

The applicable regulation defines the statutory term "extraordinary ability" as "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). Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.*

In this case, the petitioner seeks classification as an alien with extraordinary ability in the arts or sciences as an executive director of a future technology ethics department. In the previous decision, the AAO found that the director's decision did not address evidence in the record relating to five regulatory criteria and consequently issued an order remanding the case to the director for further action in accordance with the AAO decision and certification of the new decision to the AAO regardless of outcome. The director subsequently issued the aforementioned NOID, but received no response from the petitioner. The director then denied the petition and certified the decision to the AAO. We affirm the director's decision for the reasons discussed below under the regulatory criteria applicable to this case.

(ii) 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's curriculum vitae lists his membership in several organizations, but the record contains documentation of only three of these memberships. The petitioner submitted a prospectus for the [REDACTED] a copy of *Foundations*, published by the Foundation, which lists the petitioner as a member of the consultative panel and a February 14, 1997 letter from the Foundation requesting that he join the "Council" of the Foundation. The petitioner also submitted a letter regarding the Society of Black Lawyers' launch of the Black Legal Agenda indicating an interest in inviting "senior members" of the society's board, especially the petitioner, to the launch. The record contains no documentation of the membership criteria for the Foundation of the Society or other evidence that outstanding achievements are a prerequisite to membership in these two organizations. The petitioner also submitted evidence of his membership in the Society for the Study of Christian Ethics. The petitioner asserts that this society is the main professional body in Great Britain for Christian ethicists and that membership requires nomination, seconding, and formal approval by existing members. Yet the record contains no evidence to corroborate these claims.

In his decision, the director noted that the NOID requested submission of the bylaws, membership criteria and other evidence that would establish that the organizations require their members to have outstanding achievements as judged by recognized national or international experts in the alien's field. No such evidence was received and the director correctly determined that the petitioner did not meet this criterion.

(iii) Published material 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 record contains a certificate confirming the petitioner's inclusion in *Who's Who in the World*, 17th Edition 2000, but no evidence that such inclusion reflects the sustained national or international acclaim requisite to classification as an alien with extraordinary ability. The NOID requested additional evidence of the petitioner's eligibility under this criterion, but no supplemental evidence was received. Consequently, the director correctly found that the petitioner did not meet this criterion.

(iv) 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 two letters relevant to this criterion. [REDACTED] a professor at the University of Essex, indicates that the petitioner was the editor of *Crucible*, the journal of the Church of England's Board for Social Responsibility. [REDACTED] claims that this publication is highly regarded and that in this position, the petitioner coordinated and formulated Church policy on sensitive issues. [REDACTED] secretary of the board, confirms that the petitioner served as editor for *Crucible* and copies of the journal list the petitioner's name as the editor to whom articles should be submitted. Although [REDACTED] praises the petitioner's editorial pieces, he does not state how the editor of *Crucible* is chosen. The record also contains no evidence of *Crucible's* circulation. The NOID requested additional evidence to verify the claims of [REDACTED] and [REDACTED] but no supplemental evidence was received. The director's decision discusses this evidence, but does not state whether or not the petitioner met this criterion. The letters from [REDACTED] and [REDACTED] are insufficient to establish that the petitioner's work as an editor reflects the requisite sustained acclaim. Accordingly, the petitioner does not meet this criterion.

In the previous decision, the AAO noted that the signatures on photocopies of six letters, including those of [REDACTED] and [REDACTED] appear to be digitally reproduced and required the director to request submission of the original letters with the authors' original signatures pursuant to 8 C.F.R. § 103.2(b)(5). The director's subsequent NOID requested the original letters, but none were received from the petitioner.

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

The director's present decision does not discuss the evidence submitted or the petitioner's eligibility under this criterion. However, this oversight has not prejudiced the petitioner because he meets no other regulatory criteria. In addition, the previous AAO decision concurred with the director's determination in his original decision that the petitioner did not meet this criterion. The director's subsequent NOID requested pre-existing independent evidence of the petitioner's contributions to his field as well as evidence that the petitioner had actually formulated the opinions advanced in position papers that he purportedly helped write. No additional evidence was received. Consequently, the record does not establish that the petitioner meets this criterion for the reasons discussed in the previous AAO decision.

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

The director correctly determined that the petitioner did not meet this criterion. The petitioner submitted a letter from [REDACTED] the commissioning editor of the publishing company [REDACTED] confirming a July 2001 publication date for *The Situated Soul: Wisdom and Iuenty in an Information Culture*. The petitioner also submitted a database printout regarding his thesis, which does not indicate that it was

published in a nationally circulated, peer-reviewed journal. The record also contains copies of *Crucible* and *Essex Papers in Theology and Society* that contain the petitioner's commentary as well as copies of two other opinion pieces and a book review written by the petitioner.

Finally, the petitioner submitted copies of "Submission of the Church of England Board for Social Responsibility to the Royal Commission on Criminal Justice," "Sunday Trading" and "Prosecution of Alleged War Criminals." These articles are not attributed to any one individual, but were published as the opinions of the Board for Social Responsibility, although the record contains a letter from the publishing company requesting the petitioner to prepare an article on the Church's position on Sunday Trading.

The NOID requested evidence that these articles were published in professional or major trade publications or other major media, but no additional evidence was received. Accordingly, the petitioner has not met this criterion.

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

The director correctly determined that the petitioner did not meet this criterion. The record contains a list of members of the executive committee of the Society for the Study of Christian Ethics (SSCE) indicating that the petitioner became a member of the committee in 1997. The petitioner states that the SSCE is the main professional body in Great Britain for ethicists working in the Christian tradition. According to the petitioner, the executive committee plans the annual conference and provides "critical support" for the editor of *Studies in Christian Ethics*, a semi-annual publication of the society.

The petitioner also asserts that as director of the Center for the Study of Theology at the University of Essex, he established a Masters program in theology at this traditionally secular school. The record contains a pamphlet for the Masters program listing the petitioner as the Director for the Center for the Study of Theology. The petitioner also submitted a University of Leeds Newsletter announcing the formation of Friends of the Department of Theology and Religious Studies at the University for which the petitioner agreed to serve as the first chairman. As previously discussed, the petitioner also submitted a letter indicating that he was a "senior member" of the board of the Society of Black Lawyers.

The NOID requested evidence of the distinguished reputation of the organizations and establishments for which the petitioner worked as well as documentation of the nature of the petitioner's exact role that would demonstrate that he performed a leading or critical role. No supplemental evidence was submitted. Accordingly, the evidence is insufficient to meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his or her field. The petitioner bears this substantial burden of proof. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner in this case has not sustained that burden and the record does not establish that he is an alien of extraordinary ability. Accordingly, the director's decision denying the petition will be affirmed.

ORDER: The decision of the director is affirmed.