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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: NOV 21 2005
EAC 04 087 50083

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:

[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.

Mari 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 in the arts. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

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.

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.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "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).

In this case, the petitioner seeks classification as an alien with extraordinary ability in the arts. On page two, part six of his Form I-140, the petitioner stated his proposed job title as "Graphic Designer" and described the job as "[d]esign or create graphics to meet a client's specific commercial or promotional needs, such as packaging, displays, or logos. May use a variety of mediums to achieve artistic or decorative effects." Accordingly, the director quoted this job title and description in his decision. On appeal, counsel claims that "[t]his is a clear error made by the Service Center in reviewing this petition: Mr. Kim is a fine artist and NOT a graphic designer" (emphasis in original). Counsel further alleges that the director "cut and pasted" the job description from the Department of Labor's definition of this occupation. The evidence submitted with the

petition pertained largely to the petitioner's work as a visual artist. The director addressed this evidence, but also referred to the petitioner's own stated description of his proposed employment as a graphic designer. Counsel signed the Form I-140 as having prepared the petition. We find no error in the director's reference to the job title and description explicitly stated in the petitioner's Form I-140 as prepared by counsel.

On appeal, counsel submits a brief with additional contentions, new evidence concerning the petitioner's recent accomplishments and additional recommendation letters. The majority of the evidence submitted on appeal arose after the petition was filed and consequently cannot be considered. The petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See* 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). We address the record and counsel's contentions in the following discussion of the regulatory criteria relevant to the petitioner's case. The petitioner does not claim eligibility under any criteria not discussed below.

(i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

Counsel claims the petitioner meets this criterion through his receipt of a fellowship and artist's residencies at three institutions: 1) a full fellowship to attend the Skowhegan School of Painting and Sculpture ("Skowhegan") in 2001, 2) residencies at the Blue Mountain Center in 2001 and 2003, and 3) an artist's residency sponsored by Brooklyn Community Access Television (BCAT) and The Rotunda Gallery. The evidence submitted indicates that although competitive, none of these honors meet this criterion.

The record shows that the petitioner received a fellowship to attend Skowhegan when he was a graduate student. The submitted Skowhegan acceptance letter is dated April 2, 2001 and a subsequent letter dated April 20, 2001 informs the petitioner that he has been "awarded a full \$5,200 fellowship to attend Skowhegan this summer: \$2,600 from The School of Visual Arts [SVA] and \$2,600 from Skowhegan's Fellowship fund. . . . SVA is helping to support the attendance of five students this year – an extraordinary commitment." [REDACTED] Executive Director of Skowhegan, explains that the school "is an intensive nine-week summer program for emerging visual artists, providing a stimulating and rigorous environment to support artistic creation, growth and interaction." [REDACTED] states that the petitioner was one of 65 artists chosen from over 1,200 applicants. The submitted printout from Skowhegan's website states that both students and working artists are eligible for admission, that fellowships are available for participants who demonstrate financial need and that Matching School Fellowships are available to students at certain schools who are accepted to Skowhegan. Several of the recommendation letters note the competitiveness and prestige of a Skowhegan residency and Harriet S. Barlow, Director of the Blue Mountain Center, describes the school as "one of the most prestigious art programs for emerging young artists in the nation." This evidence demonstrates that admittance to Skowhegan is highly competitive and prestigious, but is an honor granted to emerging – not established – visual artists. The record indicates that artists at the top of their field may teach or lecture at Skowhegan, but have no need to attend the program themselves. Indeed, the submitted copy of a card for the Skowhegan 2002 Awards Dinner shows that the school presents actual awards, medals and special citations to established artists at the top of their fields, which are distinct from fellowships supporting Skowhegan students. Hence, the petitioner's Skowhegan fellowship does not meet this criterion.

Similarly, the petitioner's residencies at the Blue Mountain Center do not satisfy this category. The submitted printout from the Center's website states:

Blue Mountain Center is a working community of writers, artists, activists and musicians in Blue Mountain Lake, New York in the Adirondack Mountains. The Center ex [sic] provide a peaceful and comfortable environment in which guests are able to work, free from the distractions and demands of normal daily life. Established creative and non-fiction writers, and artists not requiring exceptional facilities are eligible applicants. Residents are chosen by an Admissions Committee accomplished [sic] authors and artists. The committee is particularly interested in fine work which evinces social and ecological concern and is aimed at a general audience.

Ms. Barlow further describes the Center as “an artists’ retreat and working center” and explains that “[e]ach year, a panel of nationally recognized artists reviews the portfolios of artists who apply for the one-month Residencies offered at Blue Mountain Center. Fewer than 1 out of 10 recognized artists who apply are accepted. [REDACTED] a multimedia artist, states that he met the petitioner when they were both at the Center and that the Center is “a highly selective residency program for writers, visual artists and academics.” The record thus shows that Center residencies are competitive, but the submitted evidence does not establish that they are nationally or internationally recognized awards or prizes, rather than brief opportunities for artists to retreat from distractions and focus on their work.

The record contains no primary evidence of the petitioner’s BCAT/Rotunda Gallery residency. Even if properly documented, however, this residency would not satisfy this criterion. The submitted printout states that the residency program’s goal is “to assist Brooklyn-based artists interested in exploring video and/or multimedia as an artistic medium by making BCAT’s state-of-the-art Media Center available to them at no cost, and providing training and technical assistance in video and digital production and post-production technologies.” The printout further states that the program is only open to artists who live or work in Brooklyn. The evidence thus indicates that this residency is a regional program that provides training and technical assistance. The record contains no evidence that such a professional development program is a nationally or internationally recognized award or prize for excellence in the visual arts.

On appeal, the petitioner submits evidence that he was selected for the Emerge Six artist development program at the Aljira Center for Contemporary Art and that he was granted alternate status for the Djerassi Resident Artists Program. We cannot consider this evidence because it arose after the petition was filed. The petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. See 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. We note that the record shows that Emerge Six is a career development program for emerging artists.

The evidence demonstrates that the petitioner won competitive entrance to four artists’ residency programs. The evidence submitted does not establish, however, that the petitioner’s residencies were nationally or internationally recognized awards or prizes in his field, rather than development programs for emerging artists or short retreats for working artists. Accordingly, he does 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 six articles that mention the petitioner’s work in reviews of group exhibitions. These articles were published between 2002 and 2003 in *The New York Times*, *New Haven Register*, *Time Out New York*, *Metroland Magazine*, and *NY Arts*. Counsel claims that the petitioner’s work was also covered in a 2002

article from the *Philadelphia Weekly*, but the record contains no copy of this article. The petitioner submitted stills from a television interview with him concerning his work in an exhibition entitled "The Thinking Playground" at the Gallery Boda in Seoul, broadcast on KBS-1 TV in Seoul in 1998. The petitioner also submitted four newspaper and magazine articles purportedly about him and his work that are printed in Korean. These articles cannot be considered because they were submitted with incomplete and uncertified English translations. See 8 C.F.R. § 103.2(b)(3). While five of the English articles contain favorable mentions of the petitioner's work, none of the reviews focus solely on the petitioner or discuss his work in depth. The most that any of the articles devote to the petitioner is one paragraph. Such brief and limited media coverage of the petitioner's work does not reflect the requisite sustained acclaim.

On appeal, the petitioner submits an additional article that was published in the *New York Times* on February 6, 2005 and mentions his work in another group exhibition. We cannot consider this evidence because it arose after the petition was filed. Again, the petitioner must establish eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49.

On appeal, counsel also claims that the petitioner's work has been "featured in several art books and catalogues," but the record does not support this statement. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The only publication of the petitioner's work apart from the media articles discussed above is the 2002 Skowhegan School booklet that includes one of the petitioner's paintings. The record contains no evidence that this booklet is a professional, major trade publication that is widely recognized in the petitioner's field, rather than an internal publication distributed to students, patrons and other individuals associated with the Skowhegan School.

On appeal, the petitioner also submits a letter from [REDACTED] former reviewer for the *New Yorker*, a contributor to *Art News* and *Artforum* and currently a Senior Critic at the University of Pennsylvania Graduate School of Fine Arts. [REDACTED] states, "Of all the publications that review art exhibitions, the most authoritative is, without doubt, *the New York Times* [sic]. . . . [A] mention by the Times is the clearest single indicator that an artist's work has exceptional merit." We do not question the merit or quality of the petitioner's artwork. The issue here is whether or not the submitted articles reflect his sustained national or international acclaim as a visual artist. Although largely favorable, the brief description and interpretation of the petitioner's work in five published articles does not reflect sustained national or international acclaim. Accordingly, the petitioner does not meet this criterion.

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

As evidence of the petitioner's eligibility under this category, counsel initially cited his recommendation letters and the articles discussed above under the third criterion. On appeal, counsel cites these documents as well as other previously submitted evidence and contends that the petitioner has made original contributions of major significance to his field "by creating highly acclaimed artwork and developing his own unique style." The record does not support this claim.

The petitioner initially submitted nine letters of recommendation from artists and art professionals who have worked with him. On appeal, he submits an additional eight letters. While such letters provide relevant

information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has achieved sustained national or international acclaim. Accordingly, we review the letters as they relate to other evidence of the petitioner's contributions.

Program Associate with the Media, Arts and Culture Unit of the Ford Foundation, states that he met the petitioner while curating the group exhibition, "Kid's Stuff" at the Longwood Art Gallery of the Bronx Council of the Arts in New York. explains that

[the petitioner's] work was the centerpiece of the exhibit. His work is insightful and emotionally strong. His piece in the show had been re-displayed in a subsequent exhibit called *911: Artists Respond* in the Bronx River Art Center. His work received a rave review in *New York Arts Magazine*, one of the leading art journals in the States, and in *The New York Times* is one of the top emerging artists in the current artistic field, and his growing prominence is evidenced by his inclusion in many subsequent exhibits and their strong reviews.

The record documents the petitioner's participation in these two exhibitions, but does not corroborate the "rave reviews" of his work himself is the author of the *NY Arts* magazine article that reviewed "Kid's Stuff," which devotes a single paragraph to the petitioner's work that is no longer or more substantive than those that discuss the work of the other artists in this group show. The record also contains no evidence that the *New York Times* reviewed either of the exhibitions referred to by

Director of the Skowhegan School, describes the petitioner as "an extremely gifted young artist, who has already made unique contributions to the contemporary art community in this country" explains that the petitioner "is highly original in his perspective. The art works he has created are unlike any other – he has established himself as an artist with a defined style and technique." also states that one "example of his artistic accomplishments" is the publication of his work in the Skowhegan annual booklet in 2002. The record contains an excerpt from this booklet, but no further explanation of its significance. Assistant Professor of Visual Arts at the State University of New York College at Old Westbury, affirms that the petitioner made "innovative and thought-provoking" work during his residency at Skowhegan.

Sean Stoops, a visual artist, curator and Gallery Coordinator at Asian Arts Initiative in Philadelphia, explains that he worked with the petitioner during the petitioner's participation in the "Godzookie" and "Too Cute" group exhibitions at the Asian Arts Initiative. Mr. Stoops states

Joonhyun is an exceptional artist who has stood out not only in the group exhibitions hosted by my organization, but also amongst the top young artists in general. His originality and creativity explode from his works and he is able to capture the audience through his bold expressiveness. . . . He has a gift for creating art works that evoke one's emotions, resulting in pieces that have stunned audiences across the globe. Joonhyun is an artist to watch. He is certain to continue to make significant contributions to the international contemporary art world.

The record documents the petitioner's participation in these two exhibitions, but contains no evidence that his displayed work was critically acclaimed or otherwise made a major impact on his field.

The record also does not support [REDACTED] intimation that the petitioner enjoys international acclaim. Apart from the United States, the petitioner has exhibited in his native Korea. But the record documents his participation in just two exhibitions in Korea in 1997 and 1998 and one interview of the petitioner broadcast on Korean television in 1998. The petitioner claims to have been interviewed twice on television in Korea, but the record contains evidence of only one interview. As mentioned above under the third criterion, the petitioner also submitted copies of Korean newspaper articles purportedly about him and his work, but this evidence cannot be considered because the articles were submitted without complete, certified English translations. See 8 C.F.R. § 103.2(b)(3). The petitioner's limited, documented recognition in Korea occurred at least six years before his petition was filed and does not demonstrate sustained acclaim.

[REDACTED] Managing Editor of Art Asia Pacific, explains that she met the petitioner while writing the catalogue essay for the exhibition "Mythical Nation." [REDACTED] states, "His work mainly struck me in its seriousness and profundity, as well as in his amazingly displayed painterly technique. In particular, his work *Stage* had a major impact on me and was the primary motivation for me to propose to curate another exhibition with him. . . . I have met and interviewed many artists in New York City and Kim's work ranks with those at the top, including both emerging as well as mid-career artists." The record contains two favorable reviews of this exhibition. The first, published in the *New Haven Register* on July 13, 2003, does not mention the petitioner's work in the text of the article, but features a photograph of his painting, "Stage." The second article, published in the *New York Times* on July 27, 2003, contrasts the petitioner's painting with other, light-hearted pieces in the show:

Other works offer astonishingly candid reflections on place, time and memory. Joonhyun Kim, who was born in Korea and lives in New York, paints old photographs of himself as a baby, in Korea, in the arms of his mother, set against backdrops imagined or invented from details hinted at in the photographs. The paintings are gorgeous, but also tantalizingly poignant given that, as a migrant, memories are often all you carry with you. Yet these memories are frequently imperfect and tinged with nostalgia.

[REDACTED] Gallery Director of the Arts Center of the Capital Region in Troy, New York, worked with the petitioner during the "Wonderland" exhibition at the Center in 2003. [REDACTED] explains that the petitioner's piece

is the most prominent compared to the other applicants' works because it offers deep insight into American Culture that only someone coming from the outside could perceive. [REDACTED] is a highly inventive, skilled and thought provoking artist; he is attentive to detail and is thoughtful in execution. . . . He is able to take on a variety of mediums, from paintings to installations, depending on what form best represents the content. The artwork by Kim currently in the gallery is seen by hundreds of people, and invites interaction and contemplation. . . . [REDACTED] is by far one of the most talented artists in the region.

The record contains only one review of this exhibition, published in the October 16 – 22, 2003 edition of *Metroland*, which unfavorably mentions the petitioner's work: "Except for the overly maudlin, loudly weeping installation by Joonhyun Kim, the work is sophisticated, imaginative and – well, fun."

██████████ Co-Director of Triple Candie, a non-profit contemporary art exhibition space in New York City, states that the petitioner participated in a group exhibition entitled "Living Units" at Triple Candie in 2003. Mr. ██████████ affirms that the petitioner is "an enormously talented young artist who has demonstrated a brilliant and unique approach for fine arts." ██████████ explains that the petitioner's work, "'Sobbing,' was regularly singled out by arts professionals who saw the exhibition for its eye-catching originality and its kinetic sculptural form. . . ██████████'s sculpture, which was intelligent, visually engaging, and witty, explored how popular media controls people's subconscious emotions." The *New York Times* published a short review of this show on July 18, 2003. The review briefly describes the petitioner's work: "the flower-bedecked television room in Joonhyun [sic] Kim's 'Sobbing' is apparently having a nervous breakdown."

██████████ Director of the Blue Mountain Center, states

██████████ possesses unparalleled artistic skills. The work that he creates is unquestionably some of the most groundbreaking work of the twenty-first century. His unique flare for combining strong themes with a variety of forms to create a sculptural masterpiece has lead [sic] to his success in many programs and art shows. ██████████ demonstrated that he is one of the few who is talented enough to make significant contributions to the art world. It is rare to find the qualities that Joonhyun has in an artist: His passion, creativity and imagination have culminated to produce fantastic artwork that pushes contemporary art into a new realm.

██████████ Assistant Professor of Art at Carnegie Mellon University, states:

██████████ artworks particularly stand out from others in his field. He is an artist who incorporates innovative techniques with his classically trained expertise. The result is a fantastic artistic style that captivates the viewer, drawing him in to the artwork. His choice of subject matter focuses on the human consciousness, which is a recurrent theme in many of his works. As such, Joonhyun Kim depicts memories and visions in a brilliantly unique manner, creating the illusion of past memories, while in fact these images are illusions. In addition, Joonhyun Kim's unique style is demonstrated through his artwork that integrates digitally printed 3-D diagrams into his paintings. These works are one of a kind; they are visually elegant while structurally complex.

On appeal, the petitioner submits eight additional letters, five of which cannot be considered because the authors state that they did not meet the petitioner or become familiar with his work until after the petition was filed. The petitioner must establish eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. Of the remaining letters, ██████████ Executive Director of the Bronx Council on the Arts, affirms that the petitioner participated in the group exhibition "Kid's Stuff" at the Council's gallery in 2001 and then discusses his more recent accomplishments made after the petition was filed. ██████████ describes the petitioner as "an enormously talented young artist" and concludes that "[d]espite his young age and the [sic] relatively short-term presence in the art world of this country, he is accumulating a very impressive record that few of his peers could match." ██████████ an independent curator, Project Manager at the Asia Society in New York and the petitioner's graduate school classmate, states

██████████ is a unique talent in painting and contemporary artmaking; he is a visionary among the young artists working today. He combines the impulse to challenge the common assumptions of artmaking with a generous spirit to encourage and improve work of the colleagues in his community. These are

traits that set the standard for innovative artistic practice in the current cultural climate. It is also what sets him apart from most others that are making art in the U.S.

The record documents that, at the time of filing, the petitioner had participated in 15 group exhibitions between 1997 and 2003 in Seoul, Korea; Philadelphia, Pennsylvania; New Haven, Connecticut; New York state and the New York City metropolitan region. As discussed above and under the third criterion, five of these exhibitions were favorably reviewed in magazines and newspapers. The petitioner's work is mentioned favorably in four of these reviews. The record contains no evidence that the petitioner has ever had a solo exhibition of his work or exhibited his work outside of the Northeastern region of the United States since his relocation to this country. On appeal, the petitioner submitted evidence that he successfully taught two art courses at SUNY Old Westbury, but we cannot consider this evidence because it arose after the petition was filed. Again, the petitioner must establish eligibility at the time of filing. *See* 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49.

The evidence submitted indicates that the petitioner has received limited recognition as an emerging artist with a distinctive style in New York City. Although his work is highly regarded by the authors of his recommendation letters, the record does not fully corroborate their assessments of the significance of his work. In fact, many of the letters describe the petitioner as a young or emerging artist with great talent, skill and promise. Only one letter evaluates the petitioner's work as compared to both emerging and established artists. The record indicates that the petitioner has never had a solo exhibition and has shown his work only in group exhibitions predominately in the New York City metropolitan region. The evidence submitted does not show that the petitioner or his work has significantly influenced other contemporary visual artists in the United States or abroad, or has otherwise had a major impact on his field. The record thus does not establish that, at the time of filing, the petitioner had made major contributions to his field in a manner consistent with sustained national or international acclaim. Accordingly, he does not meet this criterion.

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

On appeal, counsel claims that the petitioner "has exhibited his art work at numerous exhibitions around the world, including some of the most prestigious museums and galleries in the U.S. and South Korea." The record contains no evidence to support the purported prestige of the venues that have exhibited the petitioner's work. Again, without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Obaigbena*, 19 I&N Dec. 533 at 534; *Laureano*, 19 I&N Dec. 1; *Ramirez-Sanchez*, 17 I&N Dec. 503 at 506.

In addition, we cannot ignore the fact that exhibition of one's work is inherent to a visual artist's profession. Duties or activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine in the occupation itself, or in a substantial proportion of positions within that occupation. The record in this case documents the exhibition of the petitioner's work in 15 group shows between 1997 and 2003 in Seoul, Korea; Philadelphia, Pennsylvania; New Haven, Connecticut; New York state and the New York City metropolitan region. The petitioner submitted little or no documentation regarding the reputation, standing or significance of the venues that exhibited his work. The record is also devoid of any evidence that the petitioner has exhibited in critically acclaimed, major national or international exhibitions. Accordingly, the petitioner's exhibition record does not reflect the requisite sustained acclaim and he does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), 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 evidence in this case indicates that the petitioner is an accomplished emerging visual artist who has received limited recognition and displayed his work in group exhibitions in Seoul and the northeast region of the United States. However, the record does not establish that the petitioner had achieved sustained national or international acclaim placing him at the very top of his field at the time of filing. He is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and his 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. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed. This decision is rendered without prejudice to the filing of a new petition under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), with the requisite supporting evidence.

ORDER: The appeal is dismissed.