

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

BZ



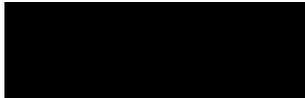
FILE:

Office: VERMONT SERVICE CENTER

Date: OCT 14 2005

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.

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 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 sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a Chinese Peking Opera actress. 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 that, she claims, meets 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.*

Initially, the petitioner submitted certificates for the following achievements:

1. Prize of Peking Opera Singing in Teenage "New Sprout" Traditional Opera Competition

- of Tianjin City in 1989;
2. Second Place Prize in the National Opera, Play and Opera Performance Competition in 1994;
  3. Prize of Excellent Performance in the 1995 Peking Opera Exchange Show of Shandong Province in 1995;
  4. First Prize of Excellent Youth in the National Traditional Opera Exchange Show in 1996;
  5. First place Prize of Youth Performance in Provincial Peking Opera Exchange Show in Shaanxi Province in 1998;
  6. Silver Prize in the Northern Area of National Artistic Performance Grand Contest in 1998; and
  7. Prize of Excellent Performance in Shijiazhuang City Joint Show of Middle Aged and Young Performers in 1999.

The director concluded that the petitioner had not established the significance of these awards, or that they were recognized beyond the entities that issued them. The letter from [REDACTED] Chief Director of Art for Dragon Opera Culture Center, Inc., submitted on appeal merely asserts that the petitioner "won the highest awards." This statement is insufficient to overcome the director's concerns. The record lacks objective evidence, such as national media coverage of the festivals and awards, confirming the significance of the above awards.

*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 submitted evidence of her membership in the Association of China Artists, which she asserts is a "non governmental association of accomplished Chinese artists in China mainland." The director concluded that the record lacked evidence that membership in the association is limited to the top of the field. The petitioner does not submit the official bylaws of the association or other official documentation from the association establishing that the association requires outstanding achievements of its members. Thus, the petitioner has not established that she meets this criterion.

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

The petitioner claims to have been a principal actress with the Tianjin Peking Opera for eight years. She asserts that this troupe is "one of the most important Peking Opera performing organization[s] in north China and present[s] frequently [sic] tour shows in Tianjin City and the region and television cultural programs at local and national television stations." The original attestation from Qiang Wang, however, affirms only that the petitioner "worked as a professional Peking Opera actress" with the troupe. On appeal, [REDACTED] lists several roles the petitioner performed. [REDACTED] does not indicate that he was ever affiliated with the Tianjin Peking Opera. The record does not include programs and reviews confirming the significance of the petitioner's role. Moreover, the record contains no evidence regarding the national reputation of Tianjin Peking Opera.

*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

While the petitioner does not claim to meet this criterion, on the petition, she listed her income as \$800 per week. In response to the director's request for additional documentation, the petitioner asserted that her monthly salary in China was RMB 3,861, while "the average monthly salary is around [REDACTED]". In support of this assertion, she submits a letter from the Tianjin Peking Opera Theater asserting that the petitioner worked there from 1993 through 1999 and that she was "the professional performer of the Second Grade Performer, and had enjoyed the same standard allowance." The letter submitted on appeal does not address this criterion and we cannot conclude that the petitioner has established that her remuneration compares with the remuneration of the most acclaimed in the 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 and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished herself as a Chinese Peking Opera actress 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. 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.