

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

B2



FILE: [REDACTED]  
EAC 03 266 51590

Office: VERMONT SERVICE CENTER

Date: SEP 21 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.

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

This petition, filed on September 29, 2003, 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 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 certificates and accompanying English language translations indicating that she received the following:

1. Excellent [REDACTED] Award in the 1991 Beijing Chinese Opera and Drama Competition of Youth Peking Opera Performers
2. First-Rate Award of Youth Performance in the 1998 Peking Opera Exchange Show of [REDACTED] Province
3. Excellent Award of [REDACTED] Performance in the Wu Han City Traditional Music and Dance Competition (undated)
4. First-Rate Award of [REDACTED] in the 1998 National Peking Opera Competition
5. Honorary Award for contribution to the "91 China Tour Art Festival & Guang Dong Joy Festival"
6. First-Rate Award of Culture & Art at the Second [REDACTED] Culture & Art Festival (1994)
7. First-Rate Award of Performance in the 1996 National Traditional Opera and Drama Performance Competition
8. Certificate of Honor "for condoling with people on the revolution district" (2002)
9. Certificate of Honor for "performance in 'The Pavilion of Peony'" (2002)

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 translations accompanying the petitioner's award certificates were not certified as required by the regulation.

Items 1, 2, 3, and 8 reflect local or provincial recognition rather than national or international recognition. Furthermore, in regard to items 1 and 2, there is no indication that the petitioner faced competition from throughout her field, rather than her approximate age group within the field. A youth award offers no meaningful comparison between the petitioner and established performing arts professionals. In regard to items 5, 8, and 9, the petitioner has provided no evidence showing that these certificates are nationally recognized awards, rather than simply an acknowledgment of her participation in a community event or stage performance.

In regard to items 1 through 9, the record contains no evidence of publicity surrounding the competitions and festivals in which the petitioner participated. Nor is there evidence showing that her awards enjoy significant recognition beyond the context of the event where they were presented. Simply receiving an award certificate with the word "national" in the title does not satisfy this very restrictive criterion. The petitioner must provide evidence to establish that her awards enjoy significant national or international stature. In this case, the record contains no documentation from the awarding entities or print media to establish that items 1 through 9 are nationally recognized performing arts awards.

In addition to the above deficiencies, the record contains no evidence showing that the petitioner has won any significant performing arts competitions subsequent to 1998. The absence of such awards suggests that the petitioner has not sustained whatever acclaim she may have earned in China.

*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.

In response to the director's request for evidence, the petitioner submitted a "Membership Card" for the China Artists' Association (CAA). According to the translation accompanying the membership card, the petitioner's grade of membership is listed as "National Second-Class Performer." The petitioner does not explain how being a "Second-Class Performer" indicates that she is one of that small percentage who have risen to the very top of the performing arts field. The record contains no evidence of the bylaws or official membership requirements of the CAA to demonstrate that admission to membership requires outstanding achievement in the performing arts or that the petitioner was evaluated by national or international experts in consideration of her admission to membership.

On appeal, the petitioner submits a letter allegedly issued by [REDACTED] former Vice Chairman of the China Dramatist Association. This letter has no address, phone number, or any other information through which this individual may be contacted. [REDACTED] discusses a few of the petitioner's stage performances, but his letter fails to demonstrate the petitioner's sustained national or international acclaim. An individual with sustained national or international acclaim should be able to produce ample unsolicited materials reflecting that acclaim.

The petitioner also submits an "Employment Agreement" allegedly issued by the "Asia Chinese Opera Troupe Inc." [REDACTED] NY 11355. There is no supporting evidence showing that this entity is a legitimate entertainment enterprise rather than simply an apartment address. According to an entry stamp in the petitioner's passport, she entered the U.S. as a nonimmigrant B-1 visitor on February 10, 2003. The Employment Agreement from the Asia Chinese Opera Troupe Inc., however, discusses the petitioner's service "as a P-3 visa holder of Peking Opera actress since June 2002." However, the petitioner did not enter the United States as a P-3 nonimmigrant until February 2003. 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. Accordingly, based on the inconsistent and factually incorrect assertions in this letter, it carries no weight. In this case, the petitioner has not established

that she will “continue work in the area of extraordinary ability” as required by Section 203(b)(1)(A)(ii) of the Act.

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 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 as a performer 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 his 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.

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.