



U.S. Citizenship
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15 2006

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date:
EAC 05 227 50776

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 Plussa

2 Robert P. Wiemann, Chief
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 (AAO) 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.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (November 29, 1991). 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 August 5, 2005, seeks to classify the petitioner as an alien with extraordinary ability as a chef. As required by section 203(b)(1)(A)(i) of the Act and the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner must demonstrate that her national or international acclaim has been sustained. The record reflects that the petitioner has been residing in the United States since January 13, 1997. Given the length of time between the petitioner's arrival in the United States and the petition's filing date (more than eight years), 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 a chef 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 of Honor issued by the Sichuan Cuisine Association on October 3, 1990 stating that she won a "1st grade prize in the Sichuan Province chefs contest." This prize, however, reflects provincial recognition rather than national or international recognition.

The petitioner also submitted "Lifelong Award for Outstanding Achievements in Cuisining [sic]" issued by the World Culture Alliance of Flushing, New York on January 8, 2005. This prize, however, reflects local or institutional recognition rather than national or international recognition.

The petitioner's initial submission also included a prize certificate issued by the China Cuisine Association on February 10, 1992 stating that she was "awarded the 3rd prize in the 8th China Chefs Festival competition." The record includes no information regarding the scope of this competition or the significance of this award.

In response to the director's request for evidence, the petitioner submitted an award certificate issued by the Asia Cook Association on March 10, 1988 stating that she won a "Silver prize in the China National Food Festival Cuisine Match." The record includes no information regarding the scope of this contest or the significance of this award.

In regard to the preceding awards won by the petitioner, there is no evidence of contemporaneous publicity surrounding these awards or evidence showing that they command a substantial level of recognition. Further, the record includes no evidence that would demonstrate the number of recipients, the criteria for granting the awards, the level of expertise of those considered, and the number of individuals eligible to compete. 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 showing that the awards presented under this criterion enjoy significant national or international stature. In this case, there is no supporting documentation from the awarding entities or print media to establish that the petitioner's awards are nationally or internationally recognized.

In light of the above, the petitioner has not established that she meets this criterion.

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.

The petitioner submitted a "Certificate of Membership" issued by the World Culture Alliance of Flushing, New York stating: "THIS IS TO CERTIFY THAT [THE PETITIONER] IS A MEMBER OF THE WORLD ASSOCIATION OF CUISIING [sic] GIVEN UNDER THE SEAL OF THE WORLD CULTURE ALLIANCE ON THE 8TH OF OCTOBER, TWO THOUSAND AND FOUR."

The petitioner also submitted a June 20, 2005 "Recommendation Letter" issued by _____ Director, China Cuisine Association, stating: "Years ago, [the petitioner] was elected as a member of our association." This letter includes no address, telephone number, or any other information through which Su Qiucheng may be contacted. Further, the petitioner has not demonstrated that primary evidence of her membership credential for this organization is unavailable or does not exist. As such, pursuant to the regulation at 8 C.F.R. § 103.2(b)(2), we do not have to accept secondary evidence of her membership.

Regarding the petitioner's membership in the World Culture Alliance and the China Cuisine Association, there is no evidence of the membership bylaws or the official admission requirements for these organizations.

The petitioner also submitted a July 20, 2005 letter allegedly issued by Elizabeth Wong of the American Chinese Professionals Association (ACPA). This document includes no address, phone number, or any other information through which _____ or the ACPA may be contacted. Nor has it been established that _____ was serving as the President of the ACPA on July 20, 2005. Nevertheless, nowhere in _____ letter does it state that the petitioner is a member of the ACPA.

In response to the director's request for evidence, the petitioner submitted an August 13, 1985 certificate stating that she is "a member of the Asia Cook Association." The petitioner also submitted a document entitled "The Regulation of Asia Cook Association." Under the heading "Chapter Three Membership," article 7 states:

Member applicants of the association must satisfy the following requirements:

1. Recognize and endorse the regulations of the association
2. Have the wishes of joining the association
3. Unit members shall possess registered hotels, restaurants, local cook organization, trade management corporations, kitchen utensil suppliers and related units in Asian area; individual members shall be culinary professionals or cuisine lovers
4. Other relevant organizations approved by the standing board of directors of the association

There is no indication that admission to membership in the preceding organizations required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of her admission to membership. Thus, the petitioner has not established that she meets this criterion.

Published materials 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.

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national or international level from a local publication or from a publication in a language that most of the population cannot comprehend. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.¹

The petitioner submitted five brief articles appearing in local Chinese-language newspapers published in New York and New Jersey. Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to 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 preceding articles were not certified as required by the regulation. Further, aside from the petitioner not identifying the authors of these articles as required by this criterion, it has not been shown that any of these publications have substantial national readership beyond Chinese language readership limited to New York and New Jersey. The record includes no circulation statistics showing their volume of U.S. readership. Because the overwhelming majority of the U.S. population does not read or comprehend Chinese, it has not been shown that an article appearing in such publications constitutes published material in "major media." Thus, the petitioner has not established that she meets this criterion.

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

The petitioner submitted 11 images (with accompanying descriptions) of what are alleged to be her culinary creations. Without further evidence, it has not been established that the petitioner's dishes are among those shown. The images of the petitioner's culinary creations were not accompanied by contemporaneous evidence (such as an event program) indicating the specific exhibition or showcase in which they appeared. In this case, there is no evidence demonstrating that the petitioner's culinary works have been displayed at significant national or international venues. Nor is there any indication that the petitioner's dishes were featured along side those of culinary professionals with distinguished national or international reputations. Thus, the petitioner has not established that she meets this criterion.

¹ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual's reputation outside of that county.

In conclusion, we concur with the director's finding that the petitioner failed to demonstrate her receipt of a major internationally recognized award, or that she meets at least three of the criteria that must be satisfied to establish the sustained 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 the 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.