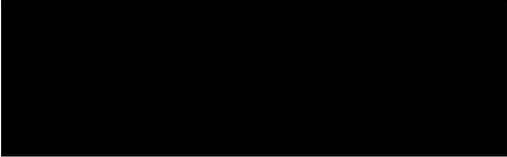


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U.S. Citizenship
and Immigration
Services

B2



FILE: EAC 04 223 50910 Office: VERMONT SERVICE CENTER Date: **MAR 03 2006**

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.

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 (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 in the arts as an actor. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability. On appeal, the petitioner maintains that he achieved sustained national and international acclaim and submits seven digital video disc (DVD) recordings of movies in which he has acted. The petitioner's claims and the evidence submitted on appeal do not overcome the deficiencies of the petition and the appeal will be dismissed for the following reasons.

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).

We address the evidence submitted and the petitioner'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.

In his April 18, 2005 letter, the petitioner states that a few of the movies in which he acted won awards. He provides no further details regarding the titles, dates or significance of these purported awards. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The record contains no corroborative evidence of any nationally or internationally recognized prizes or awards presented to the petitioner as an individual actor. Accordingly, the petitioner does not meet this criterion.

(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 submitted a copy of a letter dated November 26, 1996 from the Screen Actors Guild and addressed to him as a member. The letter references an enclosed check for "late payment damages in conjunction with [the petitioner's] work on FULL COURT PRESS" (capitalization in original). The record contains no evidence that the petitioner remained a member of the Screen Actors Guild in the over seven years from the date of this letter to the filing of his petition. The record is also devoid of any evidence that the Screen Actors Guild requires outstanding achievements of its members, as judged by recognized national or international acting experts. Rather, the submitted letter states that the Screen Actors Guild is a branch of the "Associated Actors and Artistes of America/AFL-CIO." Inasmuch as membership in a labor union is a necessary or regular part of employment in a given field, an alien's union membership alone will not satisfy this category. Accordingly, the petitioner 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 petitioner submitted several articles purportedly about him that were written in foreign languages. The articles were submitted without English translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). Because the petitioner failed to submit certified translations of the documents, we cannot determine whether the evidence supports the petitioner's claim. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding. On appeal, the petitioner indicated that he would send translations of the articles to the AAO within 30 days. The petitioner dated his appeal June 14, 2005. To date, over eight months later, the AAO has received nothing further from the petitioner.

The petitioner also submitted a copy of one article in English, entitled "Keeping it All in the Family." This article was published in the June 22, 1998 edition of [REDACTED]. The article discusses the assimilation of the petitioner's immigrant family into the United States and states that the petitioner was a successful young movie actor in Poland who now drives an ice cream truck for a living and "struggles between enjoying his newfound anonymity and hoping to one day reclaim the star status he knew." The article was published six years before this petition was filed and indicates that even prior to its publication, the petitioner had not sustained his purported past acclaim as an actor in Europe. The record is also devoid of any evidence that the [REDACTED] is a professional, major trade publication, a nationally circulated – as opposed to

regional – newspaper, or otherwise constitutes a form of major media. 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.

The petitioner does not specify any original artistic contributions of major significance that he has made to his field. The record contains a letter dated April 15, 2005 from ██████████ identified as “Director/Producer A&E’s Biography ‘Fyodor Dostoevsky,’” who states that the petitioner “is an extraordinary Actor/Artist. He has displayed much professional talent in his roles that hi [sic] is assigned to. He could be the future Dustin Hoffman.” Mr. ██████████ does not state that the petitioner acted in “Fyodor Dostoevsky” or otherwise discuss how he is aware of the petitioner’s abilities. Mr. ██████████ indicates that the petitioner is a talented actor, but does not state that the petitioner has made any original artistic contributions of major significance to his field in a manner consistent with the requisite sustained acclaim.

On appeal, the petitioner submits DVD copies of seven movies in which he acted. Because the petitioner failed to submit certified translations of these movies, we cannot determine whether the evidence supports the petitioner’s claim. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding. The petitioner claims that these movies were aired all over Europe and that some of the productions won unspecified awards. The petitioner submits no documentation to corroborate his claim. Again, simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165. Most importantly, the petitioner submits no evidence that his work in these films was critically acclaimed, influenced other actors, or otherwise had a significant impact on his field in a manner consistent with sustained national or international acclaim. Moreover, the petitioner states that the movies submitted on appeal date from 1981 to 1991, or 23 to 13 years before his petition was filed. The record contains no primary evidence of the petitioner’s work as an actor after 1991 and consequently does not indicate that the petitioner sustained his purported past acclaim as an actor in Europe after his arrival in the United States in 1991. Accordingly, the petitioner does not meet this criterion.

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

The petitioner claims that he has acted in films that were broadcast all over Europe and that some of these films won unspecified awards. The record contains no evidence to corroborate these claims or document that the petitioner’s work was shown at film festivals or other comparable events in a manner consistent with sustained national or international acclaim. Again, simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165.

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

The petitioner claims that he starred in seven movies from 1981 to 1991 that were aired all over Europe and some of which won unspecified awards. As discussed above, the copies of the petitioner’s movies were submitted without the required translations and the record is devoid of any corroborative evidence of the purportedly wide broadcast of the movies or their alleged awards. Even if the record sufficiently documented the petitioner’s starring role in the movies, the petitioner has submitted no evidence that he performed a leading

or critical role for any distinguished acting or film company as a whole in a manner consistent with the requisite sustained acclaim. Accordingly, the petitioner 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 record in this case does not establish that the petitioner has achieved sustained national or international acclaim as an actor placing him at the very top of his field. 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. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.