



U.S. Citizenship
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: MAR 20 2006
EAC 04 259 52373

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 F. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an “alien of extraordinary ability” pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). 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.

On appeal, the petitioner submits a statement and additional documents.

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). This petition seeks to classify the beneficiary as an alien with extraordinary ability as a printer. 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 the following 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.

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

(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;

(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;

(iv) Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought;

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

(vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media;

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

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

(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or

(x) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

Initially, the petitioner submitted letters from customers praising the petitioner's work at [REDACTED] and [REDACTED] during 1993 through 1995. According to the petition, the petitioner entered the United States as a visitor in 1995 and remained here.

On March 10, 2005, the director issued a notice of intent to deny, advising the petitioner of the ten criteria. In response, the petitioner submitted his technical high school record and a 1995 certificate confirming his ownership of [REDACTED] and [REDACTED].

The director concluded that the petitioner had failed to submit evidence of the beneficiary's sustained national or international acclaim. On appeal, the petitioner submits a statement chronicling his service for and eventual ownership of a printing business in Turkey. The petitioner also submits (1) a certificate of merit/employer recommendation from [REDACTED] Ltd, (2) board meeting notes confirming the petitioner's position as vice-president for [REDACTED] and [REDACTED] [REDACTED] and his 100 shares in that company, (3) a tax document for [REDACTED] (4) confirmation from the [REDACTED] Institute of Technology and the [REDACTED] Technical University that the petitioner printed two books in 1994, and (5) copies of the title pages of books printed by [REDACTED] Ltd.

While the evidence submitted on appeal confirms that the petitioner owned a printing business in Turkey prior to 1995, not every business owner enjoys sustained national or international acclaim. The only criterion the evidence addresses is performing a leading or critical role for organizations or establishments with a distinguished reputation, 8 C.F.R. § 204.5(h)(3)(viii). Clearly, the petitioner played a leading or critical role for [REDACTED]. The record, however, lacks evidence that the business enjoyed a distinguished reputation nationally beyond its clients, such as favorable media coverage of the business. Even if the petitioner had established that [REDACTED] and [REDACTED] Ltd. enjoyed a distinguished reputation nationally, the petitioner would meet only one criterion. An alien must meet at least three to be eligible for the classification sought.

Moreover, the petitioner left his business in 1995. A petitioner must demonstrate *sustained* acclaim as of the date of filing, in this case September 20, 2004. The record contains no evidence that the petitioner has any accomplishments after 1995, nine years before he filed the petition. Thus, he cannot demonstrate *sustained* acclaim.

The statute requires extensive documentation to establish eligibility for this classification. The regulations require that an alien of extraordinary ability be able to demonstrate sustained national or international acclaim. Assuming that the beneficiary is a talented printer, the record does not reflect that he has attained any national acclaim for that talent. Specifically, the petitioner has not submitted documentation that relates to more than one of the ten criteria, of which an alien must meet three.

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 himself as a printer to such an extent that he 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. Therefore, the petitioner has not established his 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.