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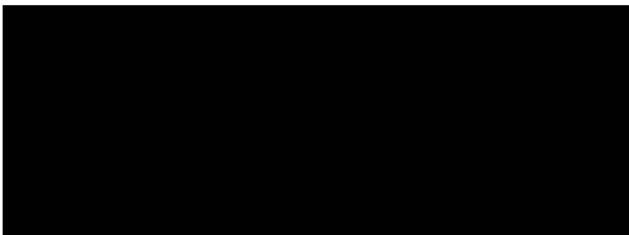
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
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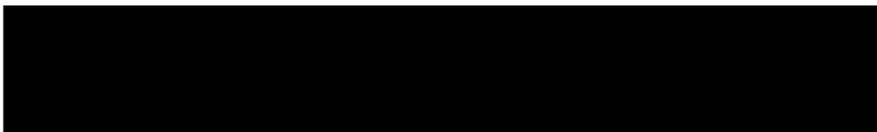


FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: JUN 01 2007
SRC 06 002 52245

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:



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.

Maura Deadnick
f Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Texas 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. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

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).

In this case, the petitioner seeks classification as an alien with extraordinary ability as an acrobatic artist. We address the evidence submitted and counsel's contentions in the following discussion of the regulatory criteria relevant to the petitioner's case. Counsel does not claim that the petitioner meets 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.

Counsel claims the petitioner meets this criterion through his receipt of the following honors in China:

1. Second prize in the Huadong Qualification Contest for the Fourth National Acrobatic Competition in March 1995;
2. Outstanding Budding Artistic Performer of Shenyang City in June 2000;
3. Outstanding Performance Award at the Liaoning Province Qualification Contest for the Fifth National Acrobatic Competition on June 15, 2000;
4. Golden Chrysanthemum Award at the First Chinese Acrobatic Golden Chrysanthemum Award, granted to the Shenyang Acrobatic Troupe for the petitioner's "High Chair" performance in October 2001; and
5. First prize for the most popular show on China Central Television's 2002 Chinese New Year Special Program, jointly awarded to the petitioner and his partner for their acrobatic act, "Power," on February 26, 2002.

The first three awards were presented to the petitioner at local, regional or provincial events and the record contains no evidence that the honors were nationally recognized in China. Moreover, all of the awards were granted between over three and nine years before this petition was filed and do not demonstrate sustained national acclaim. 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 copies of 16 media articles, one printout of the contents of a video disc (VCD), and a stamp, which mention the petitioner or picture him performing. All but three of these documents are printed in foreign languages and were submitted without complete English translations. On appeal, counsel claims that the relevant portions of the articles were translated and included in the petitioner's September 29, 2005 letter. Yet the petitioner's letter includes only brief translations of one or two sentences from seven of the articles and provides no translations for the remaining seven articles. In addition, the petitioner's letter includes no certification of his translations.

Any document containing a foreign language that is submitted to Citizenship and Immigration Services (CIS) must be accompanied by a full English translation, which 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. 8 C.F.R. § 103.2(b)(3). Because the petitioner failed to submit certified translations of the articles, we cannot determine whether the evidence supports the petitioner's claim. *Id.* Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

Even if the petitioner had submitted complete and certified translations of the articles, the documents would not satisfy this criterion for two reasons. First, the record is devoid of any evidence that the sources of the articles are professional, major trade publications or other forms of major media. Second, four of the articles and the stamp are undated and the remaining articles are all dated in 2002, over three years before this petition was filed, and consequently do not reflect the requisite sustained national or international acclaim. The VCD entitled "1994-2003 Chinese Acrobatics Quintessence" was purportedly manufactured on May 11, 2004, but the petitioner did not submit an actual copy of the VCD. Rather, the petitioner submitted a printout from a website offering the VCD for sale. 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 claims to meet this criterion through his acrobatic act, "Power." Although the petitioner and his partner were awarded a prize for their performance of this act on the 2002 Chinese New Year Special Program of the China Central Television station, the record does not indicate that the petitioner has received recognition of his achievement in a manner consistent with sustained national or international acclaim. The petitioner submitted several support letters from individuals working in his or related fields who praise the petitioner's "Power" act. However, all but two of these letters are written by individuals who have worked directly with the petitioner as his sponsor, agent, or employer.

While such letters provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has sustained national or international acclaim.

██████████, Director of the Office of Songs and Acrobatics, Department of Culture in the Bureau of Arts in China, certifies that the petitioner is "an outstanding young Chinese acrobat" whose "Power" act in China Central Television's 2002 Chinese New Year Special Program was selected as the most popular performance in the program. ██████████ also states that the petitioner has won "a good number of top prizes and awards in national acrobatic competitions." However, as discussed under the first criterion, the record does not show that the petitioner has received national awards in a manner consistent with the requisite sustained acclaim. ██████████ provides no further, probative information.

The petitioner also submitted a letter from ██████████ of the Chinese Acrobatic Association, congratulating the Shenyang Acrobatic Troupe on the petitioner's performance of the "Power" act on the 2002 Chinese New Year Special Program broadcast on China Central Television. ██████████ notes that "Power" was the first acrobatic act to be awarded the first-degree honor by the program in its 20-year history. ██████████ also praises the "highest-level techniques, elegant body movements, innovative

choreography, and smooth performance” of the “Power” act. However, [REDACTED] letter is dated March 6, 2002, over three years before this petition was filed.

The record fails to establish that the petitioner has received recognition for his “Power” act or any other achievements as major, original contributions to his field in a manner consistent with sustained national or international acclaim. 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 record shows that the petitioner has performed extensively as a member of various acrobatic troupes and performing arts programs. However, the record contains no documentation of any of the petitioner’s performances after 2002, in the three years preceding the filing of this petition. In her November 16, 2004 letter [REDACTED] Vice President of the Evergreen Entertainment Corporation, states that the petitioner performed in Miami throughout 2003. In his December 30, 2005 letter, [REDACTED] President of the Evergreen Entertainment Corporation, states that the petitioner performed at the Fontainebleau Hilton in Miami for a year between 2003 and 2004. However, the record contains no documentation of the petitioner’s performances in 2003, 2004 or in 2005 preceding the filing of this petition. In his December 20, 2005 letter, [REDACTED] Marketing Director of the [REDACTED] in North Dakota, praises the petitioner’s performance with the Golden Dragon Acrobats as part of the “Medora Musical,” but [REDACTED] does not state the date of the petitioner’s performance and the record does not otherwise document the petitioner’s participation in the “Medora Musical.”

Accordingly, the petitioner has not established that he has displayed his work at artistic showcases in a manner consistent with the requisite sustained national or international acclaim. Consequently, the petitioner does not meet this criterion.

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

The record shows that the petitioner performed a leading or critical role for the Shenyang Acrobatic Troupe as a co-performer of the “Power” act. However, even if the Shenyang Acrobatic Troupe has a distinguished reputation, the record indicates that the petitioner ceased performing with the troupe in 2002, three years before this petition was filed. Hence, the petitioner’s role with this troupe alone does not demonstrate the requisite sustained acclaim.

Vice President of Asian Artists Productions, Incorporated (AAPID), states that the petitioner joined her company in 2003 as one of its “guest performers.” [REDACTED] notes that the company “pays high respect” to the petitioner and that he is “an integral part” of the company, but she does not indicate that the petitioner performs a leading or critical role for the company. The record also contains no independent evidence that AAPID has a distinguished reputation.

In his January 2, 2006 letter, ██████████, President of AAPI, states that the petitioner has performed with the Golden Dragon Acrobats through AAPI. ██████████ praises the petitioner's performance with the Golden Dragon Acrobats on an unspecified date at the "Medora Musical" in North Dakota and the record contains promotional materials about the troupe. However, the promotional materials do not name or picture the petitioner and the record contains no independent evidence that the Golden Dragon Acrobats have a distinguished reputation. Accordingly, the petitioner does not meet this criterion.

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

On appeal, counsel claims that the petitioner meets this criterion and cites ██████████ letter as evidence of the petitioner's eligibility. However, ██████████ simply states that the petitioner is an outstanding young acrobat who won top prizes and awards and whose act was selected as the most popular show of China Central Television's 2002 Chinese New Year Special Program. ██████████ does not mention the petitioner's salary or remuneration in relation to other Chinese acrobats. The record is devoid of any evidence documenting the petitioner's high salary or other significantly high remuneration in relation to other acrobats in China or the United States. Accordingly, the petitioner does not meet this criterion.

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

In his September 29, 2005 letter, the petitioner states, "With my unique skills and extraordinary background, I have enjoyed great commercial success in the field of performing arts. My programs are always eagerly sought out and my performances are widely reported in media in different languages around the world[.]" The record contains no box office receipts or evidence of sales of videos or other media featuring the petitioner's performances. 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)). 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 evidence in this case indicates that the petitioner is an accomplished acrobat. However, the record does not establish that the petitioner has achieved sustained national or international acclaim as an acrobat placing him at the 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.