



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
LIN 05 193 50638

Office: NEBRASKA SERVICE CENTER

Date: JUN 15 2007

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:



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 Deardnick*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

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.

On appeal, counsel states:

The evidence submitted in the initial petition, in the response to the Request for Evidence and herein clearly demonstrates that [the petitioner] is one of that small percentage of musical artists who have risen to the very top of their field. His musical career and accomplishments over the past several decades have placed him firmly among the greatest viola players of our time. [The petitioner] has achieved national and international acclaim as a violist and teacher. He has proved to be most prolific with respect to recordings and international performances with the leading orchestras and soloists in the world. His accomplishments have been recognized in the world of music . . . by his colleagues, conductors, professors of music and other musicians. Thus, [the petitioner] qualifies as an alien of extraordinary ability as defined by 8 C.F.R. § 204.5(h).

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 he has sustained national or international acclaim at the very top level.

This petition, filed on June 9, 2005, seeks to classify the petitioner as an alien with extraordinary ability as a “Violist (Member of String Quartet) and Professor of Viola.” The petitioner has been employed by the Peck School of the Arts at the University of Wisconsin-Milwaukee as an artist-in-residence and as a violist with the Fine Arts Quartet since August 2001.

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. We find that the petitioner’s evidence satisfies the following three 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 evidence showing that in 1980 he won the “All-Union Competition” for viola players held in Lvov, Ukraine. Published material in the record refers to this competition as a “National Viola Competition” of the former Soviet Union. The petitioner also submitted evidence showing that his current ensemble, the Fine Arts Quartet, was awarded the third prize for a Touring Chamber Ensemble (Mixed Repertory) from the American Society of Composers, Authors and Publishers (ASCAP) for “adventurous programming during the 2003 concert season.” Information submitted by the petitioner from ASCAP’s internet site demonstrates the national significance of this prize. We find that the preceding awards are adequate to satisfy this criterion.

In addition, nationally or internationally recognized prizes or awards won by students taught by the petitioner may be considered as comparable evidence for this criterion pursuant to 8 C.F.R. § 204.5(h)(4). In this case, the petitioner submitted evidence showing that three of his students, [REDACTED] and [REDACTED] have won significant awards at the national and international level.

*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.*

The petitioner submitted several articles about himself appearing in qualifying publications. We concur with the director’s finding that the petitioner meets this criterion.

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

Published material in the record adequately establishes that the Fine Arts Quartet and the Israel Philharmonic Orchestra have distinguished reputations. The record further reflects that the petitioner performed in a leading or critical role as violist for the Fine Arts Quartet and as principal violist and soloist for the Israel Philharmonic

Orchestra. For example, regarding his role for the latter organization, a December 20, 2005 letter of support from [REDACTED] Music Director, Israel Philharmonic Orchestra, states:

I have known [the petitioner] for more than 15 years, having first met him when he joined the Israel Philharmonic Orchestra in 1990 as principal violist. During his ten-year tenure in that position [the petitioner] gave many solo performances with the orchestra on our European and American Tours. [The petitioner] is one of the finest musicians with whom I have had the pleasure of working during my years as Music Director of the Israel Philharmonic Orchestra. [The petitioner] is not only a master of his instrument, but he also has an innate musical sense and a natural quality of leadership. [The petitioner's] energy, his intense and penetrating sound and his virtuosity made his solo performances with the orchestra unforgettable. As principal of his section, he had great intuition and sense of interpretation and sound quality, which enabled him to lead his section and the orchestra to an even higher level of quality.

In light of the above, we find that the petitioner meets this third criterion.

Accordingly, the petitioner has satisfied three of the regulatory criteria required for classification as an alien of extraordinary ability. Pursuant to the statute and regulations as they are currently constituted, the petitioner qualifies for the classification sought.

In this case, the totality of the evidence establishes an overall pattern of sustained national and international acclaim and extraordinary ability in the music field. The petitioner has also established that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has overcome the stated grounds for denial and thereby established eligibility for the benefits sought under section 203 of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

**ORDER:** The appeal is sustained and the petition is approved.