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U.S. Citizenship
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Services

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FILE: LIN 06 026 51569 Office: NEBRASKA SERVICE CENTER Date: OCT 18 2007

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

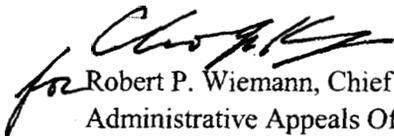
PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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.


for 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. 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 argues that the petitioner meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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 into 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, 60898-99 (Nov. 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 he has sustained national or international acclaim at the very top level.

This petition, filed on November 2, 2005, seeks to classify the petitioner as an alien with extraordinary ability as an attorney, scholar, and lecturer. The petitioner is presently the Senior Partner for CJ International Law Offices in Seoul, Korea, a firm he founded in 1986.

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, internationally recognized award). Barring the alien's receipt of a major internationally recognized award, the regulation at 8 C.F.R. § 204.5(h)(3) 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 meets at least three of the regulatory criteria.

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 specification for which classification is sought.

The petitioner submitted a June 7, 2006 letter from [REDACTED] Professor, Chung-Ang University College of Law, stating that the petitioner served as Editor-in-Chief of the *Korean Journal of Comparative Law*.¹ [REDACTED] further states that "[v]irtually every major U.S. law school library subscribes to our Journal. It . . . is considered the preeminent legal journal for international lawyers." The petitioner also submitted a May 30, 2006 letter from [REDACTED] Assistant Librarian for East Asian Law, Gallagher Law Library, University of Washington, stating:

To my knowledge, [the *Korean Journal of Comparative Law*] was the first English language journal ever published on the topic of Korean law, and it is well-known internationally as an important scholarly journal. The Gallagher Law Library has subscribed to this journal since its first issue in 1973. Since its inception, this has been the preeminent English-language journal on Korean law, and it is still one of only a very few such publications.

As Editor-in-Chief for . . . 17 years of the journal's history, [the petitioner] had overall responsibility for its success, including the selection of subjects, authors and ultimately, the editorial content. . . . In this role, to a large extent, [the petitioner] served as the judge of others in the same field, as it was ultimately he who determined whose work would be published.

The director acknowledged the petitioner's submission of the preceding letters, but concluded that they were not sufficient to meet this criterion, stating: "The record lacks any supporting documentary evidence of this role. Journals generally list any editors on the title pages, but the copies provided did not include any such information."

On appeal, the petitioner submits evidence of pages from several volumes of the *Korean Journal of Comparative Law* identifying him as its Editor-in-Chief. Based on the evidence submitted below and on appeal, we find that the petitioner meets this criterion.

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

¹ The record reflects that [REDACTED] also served as Editor-in-Chief of this journal after the petitioner's tenure.

The petitioner submitted evidence showing that he served in the Korean National Assembly from 1997 to 2000. The petitioner also submitted an August 16, 2005 letter from [REDACTED] current President of the University of Utah, who previously served as an Ambassador for Trade and Environmental Affairs, Deputy Undersecretary of State for Economic and Agricultural Affairs, and Deputy Legal Advisor to the U.S. Department of State. In discussing the petitioner's contributions as a member of the Korean National Assembly, [REDACTED] states that the petitioner played "a pivotal role in drafting Korea's Product Liability Act and the Foreign Investment Promotion Act." An October 26, 2005 letter of support from [REDACTED] and Professor of Law, University of Washington School of Law, states: "Between 1997 and 2000, [the petitioner] served as a legislator and was responsible for major overhauls of Korean business and economic law." An August 18, 2005 letter of support from [REDACTED], Senior Partner in the international law firm of Squire, Sanders & Dempsey, Tokyo, states: "In the Korean Assembly, [the petitioner] was largely responsible for drafting Korea's Product Liability Act, promulgated in 2000. He was also the driving force behind the 1998 Foreign Investment Promotion Act."

The May 30, 2006 letter from [REDACTED] states: "One of [the petitioner's] most important contributions has been his founding of the *Korean Journal of Comparative Law* (now the *Korean Journal of International and Comparative Law*) in 1973." The June 7, 2006 letter from [REDACTED] states that the petitioner "conceived the idea of and started the publication" of the journal. A September 6, 2005 letter of support from [REDACTED] Director of the [REDACTED] Institute for Global Legal Studies and Professor of Law at Washington University in St. Louis, also credits the petitioner with establishing the *Korean Journal of Comparative Law*, which [REDACTED] describes as "the premier English language journal on Korean law."

In this case, prominent legal scholars and experts from around the world have acknowledged the value of the petitioner's work and its major significance to the field. Therefore, we find that the petitioner meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner submitted evidence of his authorship of scholarly articles appearing in professional publications such as *Pacific Rim Law and Policy Journal* and *Korean Journal of International and Comparative Law* from the 1970s through December 2003.

The September 6, 2005 letter of support from Professor Haley states:

Although [the petitioner] did not choose an academic career, he has made major contributions to scholarship on Korean law [The petitioner] has lectured in many venues and has written numerous articles. Few practicing lawyers in any country have made as significant a contribution to the scholarship on the law of their country.

We find it noteworthy that the petitioner has authored scholarly articles while in government service and in private practice as opposed to working primarily in an academic setting. While publication of scholarly articles may be inherent to a law career in an academic setting, we find that the petitioner's publication record

significantly distinguishes him from other attorneys in public service and private practice as publication in these areas is generally not considered a job-related expectation. Further, the petitioner's multiple invitations to lecture and teach at prominent academic institutions in the United States demonstrates that his authorship has attracted the attention of others in his field. For example, the record includes evidence that the petitioner has lectured or taught at the Seoul National University Law School and other prominent academic institutions in Korea as well as at leading universities in the United States such as the University of Washington School of Law, the Center for Far Eastern Legal Studies at Harvard Law School, and Columbia University Law School. [REDACTED] states that "invitations like ours are not extended lightly – as the leading programs in Asian Law in the United States, these schools exercise great care in deciding whom to invite to participate in the respective academic programs."

In light of the above, the petitioner has established that he meets this criterion.

In conclusion, the petitioner has satisfied three of the regulatory criteria required for classification as an alien of extraordinary ability. Moreover, the evidence, considered in the aggregate, contains sufficient documentation of the petitioner's sustained national and international acclaim. Pursuant to the statute and regulations, 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. 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 immigrant classification under section 203(b)(1)(A) 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.