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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[Redacted]

Public Copy

File: WAC-00-052-52362 Office: California Service Center Date: OCT 02 2001

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

Petition: Petition for a Nonimmigrant Worker Pursuant to § 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(O)(i)

IN BEHALF OF PETITIONER: [Redacted]

Identifying data deleted to prevent identity unwarranted invasion of personal privacy

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The decision will be withdrawn and the record will be remanded.

The petitioner in this matter is a non-profit human rights advocacy organization. The beneficiary is a professional human rights monitor and educator. The petitioner seeks O-1 classification of the beneficiary under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the "Act"), as an alien with extraordinary ability in business, in order to employ her in the United States for a period of three years as its program coordinator for Latin American affairs at an annual salary of \$37,000.

The director denied the petition finding that the petitioner failed to establish that the beneficiary is an alien that is "extraordinary in ability as a human rights program coordinator."

On appeal, counsel for the petitioner argued, in pertinent part, that the center director's analysis was incorrect as a matter of law. Counsel argued that the petitioner must establish only that the beneficiary is an alien with extraordinary ability in her field of endeavor as a human rights advocate, not as a program coordinator of a non-profit organization. Counsel further asserted that the director failed to address the documentary evidence of extraordinary ability submitted in support of the petition.

Section 101(a)(15)(O)(i) of the Immigration and Nationality Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability.

8 C.F.R. 214.2(o)(3)(ii) defines, in pertinent part:

Extraordinary ability in the field of science, education, business, or athletics means a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.

On review of the record, counsel's argument that the Service erred in requiring the beneficiary to show extraordinary ability in a specific position, rather than a general field of endeavor, and that the decision failed to address the evidence submitted to support the claim of extraordinary ability is persuasive.

The petitioner asserted that the beneficiary has published numerous articles, has been reviewed in the media, has been invited to speak at international forums, and has received awards for her work. The

director failed to adequately address the documentation submitted to support the claim that the beneficiary is an alien with extraordinary ability in business as defined under the pertinent regulations and that she seeks admission in order to continue work in that area. See 8 C.F.R. 103.3(a)(1)(i). The director must make a determination as to whether the sum of the evidence establishes that the beneficiary is "one of the small percentage who have arisen to the very top of the field of endeavor," in this case human rights advocacy.

Accordingly, the record of proceeding will be remanded for the purpose of a new decision. The director must address the evidence submitted and make a determination of its sufficiency in satisfying the regulatory requirements. If the decision is adverse, the petitioner will be permitted to appeal without fee.

ORDER: The decision dated February 22, 2000 is withdrawn; the matter is remanded for a new decision.