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U.S. Citizenship
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FILE: SRC 04 065 50565 Office: TEXAS SERVICE CENTER Date: **JAN 09 2008**

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

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

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.

A handwritten signature in black ink, appearing to read "D. King" or similar, written over a horizontal line.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Texas Service Center Director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner describes itself as a company “charged of [sic] creating ecological consciousness.” The petitioner seeks O-1 classification of the beneficiary, under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), as an alien with extraordinary ability in science. The petitioner seeks to employ the beneficiary temporarily in the United States for a period of two years as its “specialized coordinator in ecological projects.”

The director denied the petition, finding that the petitioner had failed to establish that the beneficiary has sustained recognition as being one of a small percentage at the very top of his field of endeavor.

The record consists of a petition with supporting documentation, a request for additional documentation and the petitioner's reply, the director's decision, and an appeal with additional documentation.

Section 101(a)(15)(O)(i) of the 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.

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 has arisen to the very top of the field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii). 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. § 214.2(o)(3)(iii). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

This petition seeks to classify the beneficiary as an alien with extraordinary ability as an ecologist. The regulation at 8 C.F.R. § 214.2(o)(3)(iii) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, nationally or internationally recognized award). Barring the alien's receipt of such an award, the regulation outlines eight 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. The petitioner has submitted evidence that, it claims, meets the following criteria.¹

Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner claims that the beneficiary has been the recipient of “medals, awards and recognition from recognized organizations such as El Aleph Foundation” and the petitioning organization. As evidence, the petitioner submitted translated copies of two documents from El Aleph Foundation. The first, dated July 13, 1998, indicates that the beneficiary was granted a “mention of honor” for his “excellent performance in the activities done by the foundation.” The second document, dated October 12, 1998, purports to be a certificate accompanying an “excellence medal” awarded to the beneficiary for his “outstanding work in favor of the Development of the different Social Groups of Cali.” The record also contains a translated document from the

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

petitioner dated October 11, 2001 “granting” the beneficiary “the nomination, Golden Leaf Educarte” in human ecology. The petitioner submitted no evidence of the significance of these awards.

In response to the director’s request for evidence (RFE), the petitioner submitted letters of recommendation from the executive director of Exponica International Fair, the comptroller at the Hi Tech School of Miami, and the executive director of the Florida Trade and Exhibition Center. The petitioner failed to establish that these letters are internationally or nationally recognized prizes or awards for excellence. The beneficiary does not meet this criterion.

Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought.

The petitioner submitted photographs that it indicated were of the beneficiary serving as a judge of paintings and ecological drawings at various activities. The petitioner submitted no other documentary evidence of these activities, and submitted no evidence that the beneficiary was chosen to evaluate the participants’ submissions because of his standing in the field of ecology. The evidence does not establish that the beneficiary meets this criterion.

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

The petitioner asserts that the beneficiary meets this criterion by his creation of “characters and ecological puppets used to create consciousness about environment protection.” The petitioner states that the beneficiary also created the concepts of “golden leaf,” “black leaf,” and “educartico nome [sic] importa,” used by the petitioner in its ecological education programs. The petitioner submitted no evidence that these characters and concepts are of major significance to the field of ecology.

The petitioner states that the beneficiary also meets this criterion based on his participation as an “active member on the creation of the Ecology International Fair” and his participation in ecological education and “ambiance” seminars in Colombia. Evidence submitted included a December 21, 2003 statement from Maximaliano Caicedo Sinisterra, the director general of El Aleph, who stated that the beneficiary “promoted great ecological projects like: ecological writings, ecological motivation campaign directed to the community . . . by which he received great honors in our behalf.” Edinson Navia, a councilman of the municipality of Restrepo Valle stated in a December 16, 2003 “declaration:”

[The beneficiary] has been distinguished in our municipality as an active leader, worried [sic] for the people that work in the country, teaching them basic concepts of hygiene, and the manipulation of food and agricultural products. All [sic] the same time[, the beneficiary] has written about the way that fruits and plants should be used in the traditional home medicine.

The record also contains statements from other individuals who state, among other things, that the beneficiary was involved in “encounters and workshops” relating to “drug addiction and ecology” and served as a scout leader who contributed “with his ecological writings (stories, workshops, ad [sic] basic material for the different events) to the environmental education of the city.” None of these letters indicate that the beneficiary’s

participation as a scout leader or in leading and participating in “encounters and workshops” were of major significance to the field of ecology.

The evidence does not establish that the beneficiary meets this criterion.

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

According to the petitioner, the beneficiary meets this criterion based on his authorship of the “tale ‘Following Baden Powell’s Footsteps’ about the life of a Scout camp and its relation with nature, of the manual ‘Nature’s Magic’” and as co-author “of the tale ‘THE GODDESS OIKOS’ and of important essays and research editions.” The petitioner submitted no evidence that these documents are considered “scholarly articles” or that they were published in professional journals or other major media.

The petitioner submitted a copy of an article written by the beneficiary about the petitioning organization that was published in *Pigmento Verde*, which appears to be the petitioner’s newsletter or newsmagazine. The record does not establish that *Pigmento Verde* is a professional journal or other major media, and an article about the petitioner is not a scholarly article relating to ecology.

The evidence does not establish that the beneficiary meets this criterion.

Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.

The petitioner asserts that the beneficiary meets this criterion, as he was one of the founders of El Aleph Foundation. The petitioner, however, submitted no evidence to establish that El Aleph Foundation is an organization that has a distinguished reputation. The evidence does not establish that the beneficiary meets this criterion.

The extraordinary ability provisions of this visa classification are intended to be highly restrictive. *See* 137 Cong. Rec. S18247 (daily ed., Nov. 16, 1991). In order to establish eligibility for extraordinary ability, the statute requires evidence of “sustained national or international acclaim” and evidence that the alien's achievements have been recognized in the field of endeavor through “extensive documentation.” The petitioner has not established that the beneficiary's abilities have been so recognized. In order to establish eligibility for O-1 classification, the petitioner must establish that the beneficiary is “at the very top” of his field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii). The beneficiary's achievements have not risen to this level.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.