



U.S. Citizenship
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FILE:

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Office: TEXAS SERVICE CENTER

Date:

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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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting 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 (AAO) on appeal. The appeal will be dismissed.

The petitioner, a Peruvian Paso horse ranch, seeks to classify the beneficiary 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 that the beneficiary has earned the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, counsel argues that the beneficiary meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3) and thus qualifies for classification as an alien of extraordinary ability.

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.

United States Citizenship and Immigration Services (USCIS) 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 the beneficiary has sustained national or international acclaim at the very top level.

This petition, filed on April 17, 2007, seeks to classify the beneficiary as an alien with extraordinary ability as a Peruvian Paso horse trainer. The record reflects that the beneficiary has worked for [REDACTED] since June 2005.

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 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. A petitioner, however, cannot establish the beneficiary's eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the beneficiary meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. 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). The petitioner has submitted evidence pertaining to the following criteria.¹

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 official results for the National Association of Breeders and Proprietors of Peruvian Paso Horses (ANCPCPP) Amances Show reflecting that the beneficiary's horse, [REDACTED], won the "Champion of Champions" Gelding category in 2001, 2003, and 2004. The petitioner also submitted a July 11, 2007 letter from [REDACTED] North American Peruvian Horse Association (NAPHA), stating: "[The beneficiary] has won the highest honors possible in the show arena, the [REDACTED] . . . winning the coveted Champion of Champions title three times . . . at the Peruvian National Show in Lima, Peru."

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

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

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

The petitioner submitted membership cards showing that the beneficiary is an Associate Member of the NAPHA and the ANCP CPP.

In response to the director's request for evidence, the petitioner submitted a copy of the NAPHA bylaws and a NAPHA membership application. According to this documentation, NAPHA membership is open to individuals and entities that "own a NAPHA-registered purebred Peruvian Horse." As such, we cannot conclude that NAPHA membership requires outstanding achievements.

The petitioner's response included a membership application for the ANCP CPP. A document attached to the application lists eight "Requisites for Associating." These requirements include having a Peruvian Paso horse subscription in the Genealogical Registry and submission of reference letters from three associates. None of the eight requirements for admission to the ANCP CPP call for outstanding achievements. The petitioner also submitted the ANCP CPP's "Regulations for the Genealogy of the Peruvian Step Horse," but nothing in these regulations addresses the ANCP CPP's requirements for Associate Membership.

The petitioner's response also included a June 6, 2007 letter from [REDACTED] Director-Secretary, ANCP CPP, stating:

Through his many remarkable accomplishments as a horse breeder and trainer, [the beneficiary] is considered a "Class A Breeder" within ANCP CPP. Pursuant to ANCP CPP regulations, a Class A Breeder is:

Those persons accredited with having registered under his name, with Genealogical Registry, at least one Peruvian Paso horse born each year for the last 6 years, or one horse in eight out of the last ten years. (ANCP CPP Regulation)

A Class A breeder is the highest designation a breeder can achieve within our international organization.

With regard to the ANCP CPP's requirements for designation as a breeder, Article 12 of "Regulations for the Genealogy of the Peruvian Step Horse" states:

The natural or legal persons, being or not being associates of the ANCP CPP, in order to be considered breeders and to be allowed to register their breeder in the Registry, would need to fill out the respective form of journals with the data that the R.G. requires, declaring to know the present Regulations and whose dispositions are accepted without objections, nor any restrictions.

The preceding information does not establish that designation as a Class A breeder requires outstanding achievements.

In this case, the petitioner has not established that the preceding organizations require outstanding achievements of their members, as judged by recognized national or international experts in the

beneficiary's field or an allied one. Accordingly, the petitioner has not established that the beneficiary meets this criterion.

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.

In general, in order for published material to meet this criterion, it must be primarily about the beneficiary and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national level from a local publication. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.²

The petitioner submitted a photograph of the beneficiary's horse and three others appearing on the cover page of event program for the ANCP CPP's LXI Official National Contest of the Peruvian Paso Horse in 2006. The petitioner also submitted printouts of official results for various competitions in which the beneficiary participated. There is no evidence (such as circulation statistics) showing that the preceding material was published in professional or major trade publications or some other form of major media. Further, the plain language of this regulatory criterion requires that the published material be "about the alien." The preceding material does not meet this requirement.

In response to the director's request for evidence, the petitioner submitted an April 23, 2004 article in *El Comercio*, but the article only mentions the beneficiary's name in passing and its author was not identified. The petitioner also submitted an advertisement for [REDACTED] showing its horses for sale in the "Stallion Issue" of *Peruvian Classified*. This advertisement, which is not the result of independent media reportage, lists the beneficiary as the horses' trainer, but it does not qualify as "published material about the alien . . . in professional or major trade publications or other major media." The petitioner's response also included the event programs for the ANCP CPP's LVIII and LIX Official National Contests of the Peruvian Paso Horse in 2003 and 2004. Rather than discussing the beneficiary or his work, these event programs simply list his name in the competitive results sections. Further, these program booklets were not accompanied by certified English language translations as required by the plain language of this regulatory criterion and the regulation at 8 C.F.R. § 103.2(b)(3). Finally, there is no evidence showing that the preceding publications qualify as professional or major trade publications or some other form of major media.

The petitioner also submitted a DVD copy of a television interview of the beneficiary conducted by [REDACTED] and produced by [REDACTED]. The video footage was unaccompanied by a

² Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, for instance, cannot serve to spread an individual's reputation outside of that county.

certified English language translation as required by this regulatory criterion and the regulation at 8 C.F.R. § 103.2(b)(3). Further, there is no evidence showing that the preceding video footage was broadcast by major media outlets, that the footage aired nationally or internationally, or that it was otherwise distributed in a manner consistent with sustained national or international acclaim.

In light of the above, the petitioner has not established that the beneficiary meets this criterion.

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 regulation at 8 C.F.R. § 204.5(h)(3) provides that “a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” Evidence of the beneficiary’s participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends 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). For example, judging a national competition for professional riders is of far greater probative value than judging a local competition involving youth or amateur riders.

The petitioner submitted a February 8, 2007 letter from [REDACTED] to the beneficiary stating:

It is my great pleasure to inform you that we have received confirmation by telephone, that you were selected to the post of Judge of the ANCPCPP, by the Board of Directors at their most recent meeting on February 5, 2007.

To this effect, please note that you may now initiate the process for your designation as Non-resident Judge, submitting all of the required documents directly to my attention.

The June 6, 2007 letter from [REDACTED] submitted in response to the director’s request for evidence states: “[The beneficiary] was selected to the post of Judge by the ANCPCPP in February 2007. Of course there are certain preliminaries that [the beneficiary] must comply with before full designation as a Non-resident Judge, such as participating as a “student” judge for three competitions.”

The beneficiary’s selection to the post of Judge is not tantamount to his “participation” as a judge. The plain language of this regulatory criterion requires “[e]vidence of the alien’s participation, either individually or on a panel, as a judge of the work of others in the . . . field.” There is no evidence predating the filing of the petition which shows that the beneficiary has served as a judge for

ANCPCPP competition. For example, there is no evidence showing that the beneficiary completed his preliminary requirements for full designation as a Non-resident judge or that he had participated in such a capacity for the ANCPCPP as of the petition's filing date. A petitioner, however, must establish the beneficiary's eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). The record lacks evidence showing the specific competitions judged by the beneficiary, the names of those he evaluated, their level of expertise, his dates of participation, and documentation of his assessments. Without evidence showing, for example, that the beneficiary's activities involved judging top competitors or were otherwise consistent with sustained national or international acclaim at the very top level of his field, we cannot conclude that he meets this criterion.

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

We acknowledge the petitioner's submission of several reference letters praising the beneficiary's talent as Peruvian Paso horse trainer and discussing his activities in the field. Talent and success in one's field, however, are not necessarily indicative of original contributions of major significance. The record lacks evidence showing that the beneficiary has made original contributions that have significantly influenced or impacted his field.

[REDACTED], Arizona, states:

As Horse Trainer of Peruvian Pasos, [the beneficiary] has been responsible for training, evaluating, and transporting the stock on the ranch for shows. The knowledge and expertise of [the beneficiary] have been critical and key to the success of [REDACTED] as we strive to improve the quality and quantity of our Peruvian Paso breed for 2007 and future showing seasons under his stewardship.

[REDACTED] and International Judge for the ANCPCPP, states:

Through his participation as a professional competitor [the beneficiary] has gained the respect of his peers and breeders of the Peruvian Paso as an honest and reliable person with outstanding sportsmanship conduct.

* * *

It is my professional opinion that [the beneficiary] has attained the status as an internationally recognized Peruvian Paso Horse trainer with and extraordinary ability in training, breeding and showing the breed.

[REDACTED] California, states:

Upon review of his credentials, [the beneficiary] is an individual of extraordinary ability as a horse trainer. He has been a professional trainer of Peruvian Paso horses for nearly 20 years.

He has worked exclusively for ranches in Peru with stellar reputations as breeders and trainers of Peruvian Pasos and has earned recognition as a remarkable horse trainer [The beneficiary] has also garnered several prestigious awards as a trainer and presenter of Peruvian Pasos in the industry.

The beneficiary's competitive awards have previously been addressed under the awards criterion at 8 C.F.R. § 204.5(h)(3)(i). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for awards and original contributions of major significance, USCIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless.

[REDACTED], California, states:

I have been working with and riding Peruvian Paso Horses for approximately six years. I acquired my three Peruvian Paso horses from [REDACTED] because [the beneficiary] trained them personally.

* * *

[The beneficiary's] expertise in training horses and communicating that with us was invaluable.

* * *

[The beneficiary] has surpassed all standards and ethics regarding the breeding and training of Peruvian Paso Horses.

[REDACTED], Arizona, states:

[The beneficiary] is without comparison the best Peruvian Paso horse trainer I have had the pleasure to meet.

* * *

I have worked with [the beneficiary] at several horse shows and have been there to see him take several horses from [REDACTED], his training ranch, to champions of show.

* * *

I now own three, out of seven horses at my ranch, that have come from [REDACTED] and been trained by [the beneficiary].

The record reflects that the beneficiary is a skilled horse trainer, but there is no evidence showing that he developed original training techniques, as opposed to methodologies passed down from his own tutelage in the industry. Further, even if the training techniques utilized by the beneficiary were found to be original, there is nothing to demonstrate that these techniques have had major significance in his field. While the beneficiary has had success in training, breeding, and showing Peruvian Paso horses for several ranches, these activities are not tantamount to original contributions of major significance in the field consistent with sustained national or international acclaim.

The letters of recommendation submitted by the petitioner do not specify exactly what the beneficiary's original contributions to his industry have been, nor do they provide an explanation indicating how any such contributions were of major significance in his field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. While the beneficiary has earned the admiration of those offering letters of support, the documentation submitted by the petitioner does not establish that his work has had major significance in the field. For example, the record does not indicate the extent of the beneficiary's influence on other horse trainers nationally or internationally, nor does it show that the field has somehow changed as a result of his work.

In this case, the letters of recommendation submitted by the petitioner are not sufficient to meet this regulatory criterion. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. Thus, the content of the experts' statements and how they became aware of the beneficiary's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of an individual who has sustained national or international acclaim at the very top of the field. Without extensive documentation showing that the beneficiary's work has been unusually influential, highly acclaimed throughout his field, or has otherwise risen to the level of original contributions of major significance, we cannot conclude that he 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.

In response to the director's request for evidence, counsel acknowledges that "[t]he beneficiary has not authored or published media." After the preceding acknowledgment, however, counsel argues that the DVD copy of the beneficiary's television interview relates to this criterion. This evidence has already been addressed under the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(iii). Being interviewed

for a television program does not constitute one's "authorship of scholarly articles in the field." As such, the petitioner has not established that the beneficiary meets this criterion.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

In response to the director's request for evidence, counsel states: "The evidence submitted establishes that the beneficiary works in a field requiring a specialized art in riding, exhibiting and showcasing the animals he has personally trained based on vital requirements of the ANCP CPP to preserve the culturally unique breed of horse." The documentation submitted by the petitioner, however, does not establish that the beneficiary's field is in the arts. It is evident from the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vii) that this criterion applies to the visual arts (such as sculpting and painting) rather than to the beneficiary's industry. Moreover, it is inherent to the field of Peruvian Paso horse training to compete at shows. The competitive horse shows in which the beneficiary participated have already been addressed under the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i). The record does not reflect that the beneficiary performed at a noncompetitive artistic exhibition designed to showcase the top of his field. Upon review, we find the director properly considered the evidence submitted, thoroughly addressed counsel's arguments and appropriately addressed the evidence and arguments in his decision. The petitioner does not specifically challenge the director's findings on appeal. Accordingly, the petitioner has not established that the beneficiary meets this criterion.

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

In order to establish that the beneficiary performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of the beneficiary's role within the entire organization or establishment and the reputation of the organization or establishment.

The record does not include evidence showing that [REDACTED] has a distinguished reputation. Further, the petitioner has not established that the beneficiary's role for the ranch was leading or critical. In response to the director's request for evidence, counsel states that "[t]he beneficiary is the sole member, trainer, coach, and breeder consultant of [REDACTED]." This statement is not corroborated in the letter from [REDACTED] which indicates that he owns and operates [REDACTED]. Mr. [REDACTED] lists the beneficiary's responsibilities, but he does not state that the beneficiary is the "sole" performer of roles identified by counsel. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). In this case, there is no evidence demonstrating how the beneficiary's role differentiated him from the other workers at [REDACTED] let alone its ownership. Mr. [REDACTED] letter states that his ranch has sold three horses trained by the beneficiary for approximately \$5000 each, but it does not establish that the beneficiary

was responsible for the ranch's success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim.

In light of the above, the petitioner has not established that the beneficiary meets this criterion.

In this case, the petitioner has established that the beneficiary meets only one of the regulatory criteria, three of which are required to establish eligibility. 8 C.F.R. § 204.5(h)(3). The petitioner has failed to demonstrate the beneficiary's receipt of a major, internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability. The conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the beneficiary as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

Documentation in the record indicates that the alien was the beneficiary of an approved O-1 nonimmigrant visa petition filed in his behalf by [REDACTED]. While USCIS has approved an O-1 nonimmigrant visa petition filed on behalf of the beneficiary, that prior approval does not preclude USCIS from denying an immigrant visa petition based on a different, if similarly phrased standard. It must be noted that many I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Brothers Co. Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989). Because USCIS spends less time reviewing I-129 nonimmigrant petitions than I-140 immigrant petitions, some nonimmigrant petitions are simply approved in error. *Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d at 29-30; *see also Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004) (finding that prior approvals do not preclude USCIS from denying an extension of the original visa based on a reassessment of the beneficiary's qualifications).

The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

Furthermore, the AAO's authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of the beneficiary, the AAO would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001).

Review of the record does not establish that the beneficiary has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the

beneficiary's achievements set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established the beneficiary's eligibility pursuant to section 203(b)(1)(A) of the Act and the 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.