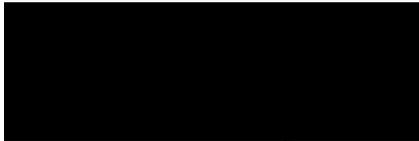


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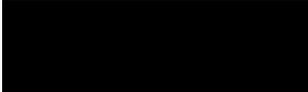
U.S. Citizenship
and Immigration
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prevent clearly unwarranted
invasion of personal privacy**



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FILE: SRC 03 051 51254 Office: VERMONT SERVICE CENTER Date: **OCT 21 2005**

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:

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.



Robert P. Wiemann, Director
Administrative Appeals Office

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

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 that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

(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.

Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend 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).

In this case, the petitioner seeks classification as an alien with extraordinary ability in the arts as a painter. The petitioner initially submitted evidence of his paintings, exhibitions and media articles about his work, many of which were submitted without certified English translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). On appeal, the petitioner submits additional evidence including certified translations of four articles about his work. The documents submitted on appeal do not overcome the deficiencies of the petition and the appeal will be dismissed. We address the evidence submitted in the following discussion of the regulatory criteria relevant to the petitioner's case. The petitioner does not claim eligibility under any criteria that are not discussed below.

(iii) 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.

The record contains seven documents with articles about the petitioner's work or photographs of the petitioner and his work. Two of these documents are printed in English, but the record does not show that they were published in professional, major trade publications or other major media. The first English document is titled "Naif Paintings," but is undated and is from an unidentified source. The second English document is a one-paragraph announcement of the exhibition of the petitioner's paintings at the Ringwood Public Library and was published in the May 2002 edition of *Passaic County Arts News*.

The remaining five documents were printed in Spanish and were submitted without certified translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). On appeal, the petitioner submits certified translations of four of these articles. These documents feature photographs of the petitioner's work and discuss his career, techniques and contributions to primitivist painting in Colombia. However, the record contains no documentation regarding the publication and circulation of the magazines and newspapers in which these articles were printed. Hence, the evidence submitted does not demonstrate that these magazines and newspapers are professional, major trade publications or other major media in Colombia or abroad. Consequently, the petitioner does not meet this criterion.

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

The articles submitted with translations on appeal indicate that the petitioner received limited recognition as a primitivist painter in Colombia from 1986 to 1998. Two articles quote the art critic Rodolfo Gutiérrez Gómez as stating, "In [the petitioner's] work one sees a miniaturist's outline, in his detailed process of concretizing form, making the profile more emphatic, the delimiting of color that achieves a particular clarity." The article printed in the September 1998 edition of *Renovación Internacional* further explains that the petitioner's work portrays "the original rural landscape in which the Colombian man lived in an epoch when he was ignorant of the modern currents that would bring him to the hovels of misery on the hillsides of great cities. This work petrifies in time an enchanting episode lived by our men who hadn't learned the word 'violence' or joined the world of 'dog-eat-dog.'" While these articles provide vivid descriptions of the petitioner's work, they do not identify any original contributions of major significance that he has made to his field. For example, they do not state that the petitioner possesses a unique style or employs innovative techniques that have significantly influenced other artists.

Materials concerning the petitioner's exhibitions similarly document his career, but do not demonstrate that the petitioner has made major contributions to his field. On appeal, the petitioner submits a letter from the United Nations Staff Recreation Council, which affirms that the Council, through its Colombian Cultural Club, sponsored the exhibition of the petitioner's paintings at the United Nations (U.N.) Headquarters building in New York City from May through June of 2000. Yet the record contains no documentation of the exhibition selection criteria for the U.N. Headquarters and no evidence that the petitioner's exhibition received critical acclaim or was otherwise significantly recognized in his field. On appeal, the petitioner also submits a letter from the Consulate General of Colombia in the United States confirming the exhibition of the petitioner's work at the Consulate in New York City. The letter itself is undated and does not state the dates of the petitioner's

exhibition. Although the letter states that the petitioner's work was exhibited "with great success," the record contains no evidence to corroborate that statement. Again, the record is devoid of any evidence that this exhibition received critical acclaim or was otherwise significantly recognized in the petitioner's field in the United States or Colombia. The record also documents the exhibition of the petitioner's work at a local public library in the United States in 2002, but contains no evidence that the exhibition received national attention or critical acclaim.

The media articles submitted on appeal state that the petitioner's work has been exhibited in national galleries in Colombia and international shows in Italy and France. The record contains cards apparently relating to some of these exhibitions, but the documents were submitted without certified translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). Moreover, the petitioner submitted no evidence that his work received significant critical acclaim at any of these exhibitions.

Finally, the record shows that one of the petitioner's paintings was printed on a U.N. Children's Fund (UNICEF) greeting card. On appeal, the petitioner submits a statement describing the selection process for UNICEF greeting cards, but does not identify the source of the information presented. Even if selection for a UNICEF card is competitive and prestigious, the submitted document states that the petitioner's work was selected in 1996, seven years before his petition was filed. Consequently, his selection does not reflect the requisite sustained acclaim.

The record documents limited recognition and display of the petitioner's work between 1986 and 2002, but does not establish that the petitioner has made original, major contributions to his field in a manner reflective of the requisite sustained acclaim. Accordingly, the petitioner does not meet this criterion.

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

As discussed above under the fifth criterion, the record documents three exhibitions of the petitioner's work at the Colombian Consulate in New York City on an unspecified date, the U.N. Headquarters in New York City in 2000 and at a local public library in New Jersey in 2002. The petitioner submitted no documentation of the exhibition criteria for these venues. The record is also devoid of any evidence that these exhibitions received critical acclaim or other significant recognition in his field.

The record contains documents relating to exhibitions of the petitioner's work in other countries, but these materials were submitted without certified translations as required by the regulation at 8 C.F.R. § 103.2(b)(3). Three of the articles submitted on appeal note that the petitioner exhibited his work at the International Art Fair in Bologna, in national galleries in Colombia, and in France, but they do not discuss the significance of these exhibitions. The record thus does not establish that the petitioner's work has been exhibited in a manner consistent with the requisite sustained acclaim. Consequently, he does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his or her field. The record in this case does not establish that the petitioner has achieved sustained national or international acclaim as an artist placing him at the very top of his field. He is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and his petition may not be approved.

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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 not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.