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FILE: [REDACTED]  
EAC 04 039 52166

Office: VERMONT SERVICE CENTER

Date: SEP 21 2005

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:

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.

*Maif Johnson*

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 the petitioner had not established the sustained national or international acclaim necessary to qualify 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 to the United States will substantially benefit prospectively the United States.

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 she has earned sustained national or international acclaim at the very top level.

This petition, filed on November 24, 2003, seeks to classify the petitioner as an alien with extraordinary ability as a "Peking Opera Actress." The statute and regulations require the petitioner's acclaim to be sustained. The record reflects that the petitioner has been residing in the United States since 2001. Given the length of time between the petitioner's arrival in the United States and the petition's filing date, it is reasonable to expect the petitioner to have earned national acclaim in the United States during that time. The petitioner has had ample time to establish a reputation as a performer in this country.

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, international 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. The petitioner has submitted evidence pertaining to the following criteria.

*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 certificates and accompanying English language translations indicating that she received the following:

1. Special Prize for [REDACTED] Chinese Traditional Opera Contest (1998)
2. Second Place Prize in 2<sup>nd</sup> North of China Peking Opera Performer Television Grand Prize Contest (1998)
3. Second Place Prize in the National Opera and Drama Contest (1994)
4. Third Place Prize in the [REDACTED] Opera Performer Television Grand Prize Contest (1998)

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to Citizenship and Immigration Services (CIS) shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The translations accompanying the petitioner's award certificates were not certified as required by the regulation.

We note that item 2 reflects regional recognition rather than national or international recognition. In regard to item 4, there is no indication that the petitioner faced competition from throughout her field, rather than her approximate age group within the field. A young performer award offers no meaningful comparison between the petitioner and established performing arts professionals.

In regard to items 1 through 4, there is no documentation indicating the total number of prizes annually distributed by the awarding entities, the criteria used in determining recipients for each particular prize, or the level of media coverage associated with the contests. We note here that section 203(b)(1)(A)(i) of the Act requires "extensive documentation" of sustained national or international acclaim. Pursuant to the statute, the petitioner must provide adequate evidence to establish that the prizes presented under this criterion enjoy significant national stature. Simply alleging that an award is nationally recognized cannot suffice to satisfy this criterion. Contemporaneous evidence of national recognition associated with the awards is of far greater evidentiary value, particularly when the statute requires "extensive documentation" of sustained national or international acclaim.<sup>1</sup> In this case, there is no documentation from the awarding entities or print media to establish that items 1 through 4 are nationally recognized performing arts awards.

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<sup>1</sup> For example, large-scale competitions typically issue event programs listing the order of events and the names of all of the participants. At a competition's conclusion, results are usually provided indicating how each participant performed in relation to the other competitors in his or her events. The petitioner, however, has provided no evidence of the official comprehensive results for the competitions in which she received prizes.

In addition to the above deficiencies, the record contains no evidence showing that the petitioner has won any significant performing arts competitions subsequent to 1998. The absence of such awards suggests that the petitioner has not sustained whatever acclaim she may have earned in China.

*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, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. In addition, it is clear from the regulatory language that members must be selected at the national or international level, rather than the local or regional level. Therefore, membership in an association that evaluates its membership applications at the local or regional chapter level would not qualify. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

In response to the director's request for evidence, the petitioner submitted what is alleged to be her "Membership Card" for the Association of Chinese Artists (ACA). The record does not include the membership bylaws or official admission requirements for the ACA. There is no indication that admission to membership in this organization required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of her admission to membership.

*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, the petitioner submitted evidence of her alleged authorship of an article entitled "The Actress Puts on Makeup." There is no evidence showing that this article was published, and the name of the publication in which the article appeared has not been identified. Without evidence of the article's significant national distribution or substantial influence within the performing arts community, we cannot conclude that it fulfills this criterion.

Beyond the decision of the director, the regulation at 8 C.F.R. § 204.5(h)(5) requires "clear evidence that the alien is coming to the United States to continue work in the area of expertise." Subsequent to her arrival in 2001 as a P-3 nonimmigrant Chinese Opera performer (LIN 01 221 52202), there is no evidence showing that the petitioner's primary occupation in the United States involves Peking Opera. For example, there is no documentation showing that the petitioner has regularly taken part in performances here in the United States.

On appeal, the petitioner submits what are alleged to be photos of her stage performances, but these photos do not satisfy any of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States. The petitioner in this case has failed to demonstrate that she 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.

Review of the record does not establish that the petitioner has distinguished herself as a performer to such an extent that she 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 petitioner's achievements set her significantly above almost all others in her field at a national or international level. Therefore, the petitioner has not established 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.