



U.S. Citizenship
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FILE: [REDACTED]
SRC 05 007 50630

Office: TEXAS SERVICE CENTER Date: **SEP 28 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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas 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. 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 he has earned sustained national or international acclaim at the very top level.

This petition, filed on October 8, 2004, seeks to classify the petitioner as an alien with extraordinary ability as a calligrapher. 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 January 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 calligrapher in this country.

In support of the petition, the petitioner submitted nine photographs of what is alleged to be his calligraphy. This evidence, however, was not sufficient to demonstrate the petitioner's sustained national or international acclaim, or that his achievements have been recognized in his field of expertise. On November 3, 2004, the

director denied the petition, finding that the petitioner's evidence did not satisfy any of the criteria at 8 C.F.R. § 204.5(h)(3).

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. On appeal, 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 submits a Certificate of Honor (dated January 1999) with an accompanying English language translation indicating that he received a "first grade award of national calligraphy contest." The record, however, contains no evidence of publicity surrounding this contest or evidence showing that the petitioner's award enjoys a significant level of recognition. Simply receiving an honor certificate with the word "national" in the title does not satisfy this very restrictive criterion. The petitioner must provide evidence showing that his award enjoys significant national or international stature. In this case, the record contains no documentation from the awarding entity or print media to establish that the petitioner's Certificate of Honor is a nationally recognized artistic award. Furthermore, 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 translation accompanying the petitioner's Certificate of Honor was not certified as required by the regulation.

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

The petitioner submits a photocopy of the cover of a publication entitled *International Hard Pen Calligrapher Dictionary* of which he claims he is an author. The record contains no evidence showing the part of this publication that the petitioner authored or quantitative evidence of the publication's significant national or international readership. Nor is there supporting evidence indicating that the petitioner's published material (if any) is viewed throughout his field as significantly influential.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The petitioner re-submits the nine photographs of what is alleged to be his calligraphy. On appeal, the petitioner added captions to these photographs indicating the dollar amount and date of sale of each work. The petitioner claims that his "calligraphy works are sold at high prices." The record, however, contains no evidence to support the petitioner's assertions regarding the amounts he earned from the sale of his calligraphy. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)

(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). There is no evidence showing that the petitioner's compensation is significantly higher than that of other professional calligraphers.

In this case, the petitioner has failed to demonstrate 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.

Review of the record does not establish that the petitioner 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 petitioner's achievements set him significantly above almost all others in his field at the 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.

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. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States." The record contains no such evidence.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.