



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

B2



FILE:



Office: TEXAS SERVICE CENTER

Date: OCT 24 2007

SRC 06 069 52443

IN RE:

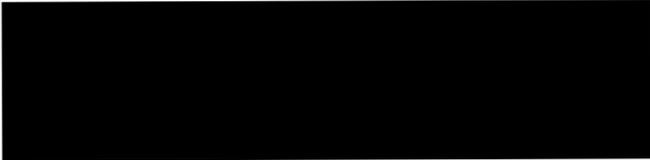
Petitioner:

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.


for Robert P. Wiemann, Chief
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 (AAO) on appeal. The appeal will be dismissed.

The petitioner, an art print publishing company, 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 in the arts. 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 petitioner submitted evidence establishing the beneficiary meets “at least 3 of 10 criteria to qualify as an alien of extraordinary ability in the arts.”

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.

Citizenship and Immigration Services (CIS) 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 December 29, 2005, seeks to classify the beneficiary as an alien with extraordinary ability as a painter and an illustrator. 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 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.

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

In response to the director’s request for evidence, the petitioner submitted a November 26, 2003 certificate issued by the [REDACTED] Colombia stating that the beneficiary earned first place in the area of contemporary painting “in the exposition in the College of Fine Arts.” This award reflects local recognition rather than national or international recognition.

In addressing the evidence for this criterion, the director’s decision stated: “No other information about this award was submitted. None of the letters submitted mention this award. The petitioner has not . . . established that the beneficiary has been awarded a nationally or internationally recognized prize or award” We concur with the director’s observations.

On appeal, counsel argues “[t]here is no requirement in the regulations that the awards be accompanied by letters . . . or other information about them.” The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i), however, specifically requires that the beneficiary’s awards be *nationally or internationally recognized* in the field of endeavor and it is the petitioner’s burden to establish every element of a given criterion. There is no evidence that the beneficiary’s award from [REDACTED] commanded national or international recognition in her field consistent with sustained national or international acclaim. Moreover, the plain language of this regulatory criterion requires the beneficiary’s receipt of “prizes or awards.” A single award does meet this requirement.

In light of the above, 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.

The petitioner submitted page 32 of the January 2005 issue of *Decor* magazine and page 48 of the March 2005 issue. Although these pages contain images of the beneficiary’s artwork (along with images of works from other artists), the accompanying articles are not primarily about the beneficiary. Further, the author of the material is not identified as required by this regulatory criterion. The petitioner also submitted a captioned photograph appearing in *Urban Magazine*, a local publication devoted to “Urban Living in Miami.” This captioned photograph does not meet the plain language of this regulatory criterion. An article in *El Colombiano* appears to

be about the beneficiary, but it is not dated or translated, nor is its author identified as required by this regulatory criterion. Another article in the [REDACTED] is not translated, nor is its author identified as required by this regulatory criterion. Finally, the article in *El Venezolano* magazine is not translated, nor is it primarily about the beneficiary.

In response to the director's request for evidence, the petitioner submitted an article about the beneficiary in the April 30, 2006 issue of *El Universal*. In addressing this evidence, the director's decision stated: "The article in *El Universal* Newspaper is dated after the petition was filed and cannot be considered." We concur with the director's finding. On appeal, counsel argues that this finding "is an incorrect interpretation of the regulations," but he offers no regulatory authority in support of his conclusion. As noted by the director, the article in *El Universal* was published subsequent to 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)(12); see *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider this article in this proceeding.

The director's decision further stated: "The evidence submitted does not indicate that the beneficiary has been the primary subject of an article in a professional or major trade publication or other major media." We concur with the director's finding. There is no evidence (such as circulation statistics) showing that the publications identified above qualify as "professional or major trade publications or other major media."

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, serving on the jury of a national exhibition for professional artists is of far greater probative value than judging a local competition involving students or amateur artists.

The petitioner submitted a two-sentence December 1, 2005 letter from [REDACTED] [REDACTED] "We certify that [the beneficiary] has been one of the judges in our selection committee. As a judge, [the beneficiary] has fulfilled an invaluable role in the selection of exhibits and artists." This letter is deficient in that it fails to identify the specific exhibits and artists judged by the petitioner.

In addressing the evidence for this criterion, the director's decision stated:

The petitioner was requested to provide additional evidence regarding the beneficiary's selection as a judge. In response . . . to the request for evidence, the petitioner submitted the same letter. The petitioner has not established that the beneficiary has been selected to serve as a judge of the work of others based on her reputation in the field and that the event being judged was at a national or international level.

Despite being informed of the deficiencies for this regulatory criterion, the petitioner's response to the director's request for evidence and the appellate submission included no substantive evidence addressing the beneficiary's participation as a judge. Rather, the petitioner's response to the director's request for evidence included an April 24, 2006 letter from [REDACTED] Department, Seattle Pacific University, which simply repeats [REDACTED] claims. [REDACTED] states:

I have been provided by the Foundation for International Services with documents and examples of a range of art work of [the beneficiary].

* * *

I have not authenticated any of these documents and have formed my opinion based upon the assumption that the documents are accurate.

I have been asked to write this expert opinion letter because of my professional background . .

* * *

A letter written by [REDACTED] Director of the Latin American Art Museum[,] confirms that because of her recognized artistic expertise [the beneficiary] was asked to serve as a judge selecting work for exhibition at that institution. It is my professional opinion that she has thus met a third criterion for establishing extraordinary ability eligibility.

With regard to the documentation submitted for this criterion, there is no evidence showing the names of the artists judged by the beneficiary, their level of expertise, the paperwork documenting her evaluations (e.g., judging slips for specific works of art), and the dates of her participation. The benefit sought in the present matter, however, is not the type for which documentation is typically unavailable and the statute specifically **requires "extensive documentation" to establish eligibility. See section 203(b)(1)(A)(i) of the Act.** The commentary for the proposed regulations implementing this statute provided that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). We find that the brief statements from [REDACTED] sufficient details regarding the beneficiary's participation as a judge of the work of others and thus cannot suffice to meet this criterion.

On appeal, counsel states:

The expert opinion letter from [REDACTED] which was submitted as part of the RFE [request for evidence] response, states that in the professor's expert opinion, the fact that [the beneficiary] was a judge on the Museum's selection committee was prima facie evidence that she met the criteria for extraordinary ability as a judge of the work of others. . . . A reasonable officer should have accepted the Professor's opinions, as well as the credentials which were attached to his letter. In addition, the Officer apparently did not take into consideration that this was a museum, not a gallery, and common sense should dictate that being selected as a judge for the museum's selection committee should be construed as prestigious to even a person who knows nothing about art.

We accept that [REDACTED] is an expert in his field and have no reason to doubt his credentials. However, the specific information provided in his letter and his relationship to the beneficiary have a bearing on the weight that CIS accords his expert opinion. For example, [REDACTED] letter includes no information regarding the reputation of the museum or the specific exhibits and artists judged by the petitioner. Nor does he state that he was aware of the petitioner's reputation in the field prior to being solicited to review her credentials. Rather, he simply repeats the limited information contained in the letter from [REDACTED]. The AAO may, in its discretion, use as advisory opinion statements submitted as expert testimony in visa proceedings. However, where an opinion is not in accord with other information or is in any way questionable, the AAO is not required to accept or may give less weight to that evidence. [REDACTED] 19 I&N Dec. 791 (Comm. 1988). Regarding the beneficiary's participation as a judge for the Latin American Art Museum, while a third-party letter from an expert such as [REDACTED] may help place the evidence for this criterion in context, it cannot serve as primary evidence of the achievement required by the criterion. As discussed above, the initial evidence in the form of the brief, two-sentence letter from [REDACTED] upon which [REDACTED] opinion is based, is not sufficient to meet this criterion.

Section 291 of the Act provides, in pertinent part:

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not inadmissible under any provision of this Act, and, if an alien, that he is entitled to the nonimmigrant; immigrant, special immigrant, immediate relative, or refugee status claimed, as the case may be.

The statute further states that the evidence must establish eligibility "to the satisfaction" of the adjudicating officer. This burden is confirmed in *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965) and *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). Without documentation of the beneficiary's service as a judge for the Latin American Art Museum of Miami, Florida and evidence that such service is consistent with sustained national or international acclaim, we cannot conclude that the beneficiary meets this criterion.

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

The petitioner submitted photographs of an exhibition in which the beneficiary participated at the Miami Beach Convention Center (date unknown), photographs of her works on display at the Agua Gallery (date unknown), a catalog of her works for sale by Sundance Graphics, a photograph of her "reproductions" on display in a window of the [REDACTED]

interior design services in which four of the beneficiary's works appear, a promotional flyer for a Latin American art show entitled "First Show of Bolivarian Artists" (September and October 2001) in which the beneficiary participated (sponsored by the Bolivian, Colombian, Ecuadorian, Panamanian, Peruvian, and Venezuelan consulates in Miami), a December 2001 "Certificate of Appreciation" from the City of Miami for the beneficiary's contribution to the city's *Contemporary Artists Directory*, a December 2001 letter from the ARA Gallery Cultural Center inviting the beneficiary to participate in its "Art in America" exposition in February 2002, a December 2002 letter from the owner of DaVinci's Gallery & Frames, Inc. of Coral Gables, Florida stating that the beneficiary "exhibited her oil paintings" in his gallery in 2002, an October 2001 letter from the Consul General of the Colombian Consulate in Miami thanking the beneficiary for her participation in an art exhibit involving "other Colombian artists," a February 2005 letter from the [REDACTED] of [REDACTED] the beneficiary to participate in its exhibition "at the annual [REDACTED] Festival," an August 2005 letter from the owner of [REDACTED] in Bogota, Colombia stating that he exhibits the beneficiary's work in his galleries, and a February 2002 letter from Gallery Actualidad in Bucaramanga, Colombia stating that it has "shown and sold" the petitioner's works.

A November 18, 2002 letter of support from [REDACTED] of the ARA Gallery Cultural Center of Coral Gables, Florida states that the beneficiary exhibited her oil paintings there in 2001 and that it "is one of the best known and most exclusive art galleries in Miami."

A November 18, 2002 letter of support from [REDACTED] of the Caesarea Gallery of Boca Raton, Florida states that the beneficiary exhibited her oil paintings there in 2002 and that it "is one of the best known and most exclusive art galleries in Palm Beach County, Florida."

We note the duplicative language in the preceding letters of support from [REDACTED]. Further, we find that their self-serving observations regarding the reputation of their own galleries are of limited probative value. Even if we were to accept [REDACTED] self-serving statements as to reputation of their galleries in South Florida, there is no indication that exhibiting in these galleries is consistent with sustained national or international acclaim rather than local acclaim in South Florida.

The director requested the petitioner to provide additional evidence regarding the beneficiary's exhibitions. The petitioner's response included the April 24, 2006 letter from [REDACTED]

In their letter requesting that EB-1 status be granted [the beneficiary] Sun Dance Graphics lists the group and solo exhibitions she has participated in since 1989. These include 7 exhibitions of her sculptural work and 29 exhibitions of her paintings and/or prints. The sculpture exhibitions were all in Colombia. The painting and print exhibitions were in primarily in [sic] the United States but the list also included exhibitions presented in Colombia. Of the U.S. galleries listed the ARA Gallery, the Alexander Patrick Gallery, and the Cesarea Gallery are the best known and most highly thought of. That [the beneficiary] has exhibited at these galleries evidences her status as a significant artist. This opinion is further supported by the fact that [the beneficiary] has been invited to exhibit her art at the Colombian Consulate in Coral Gables, Florida, the Venezuelan Consulate in Miami, Florida, the Museum of Hispanic & Latin American Art in Miami, the New York Print Fair and the New York Art Expo. The latter two are major annual art events which present the work of leading contemporary artists.

indicates that his conclusions were based on a listing of group and solo exhibitions provided by the petitioner in its November 8, 2005 letter accompanying the petition. The record, however, includes no documentary evidence showing that the beneficiary has exhibited her work at the Alexander Patrick Gallery, the New York Print Fair, and the New York Art Expo.

In addressing the evidence for this criterion, the director's decision stated:

With the petition, the petitioner submitted letters inviting the beneficiary to exhibit her work and letters verifying that she had exhibited her work. The petitioner was requested to provide additional evidence regarding the exhibitions. In response to the request for evidence the petitioner submitted evidence that was previously submitted. The petitioner also submitted photos of other exhibitions and a catalogue of the beneficiary's works. The petitioner has not submitted evidence to establish the significance of the shows in which the beneficiary exhibited.

To allow any artists whose work has been submitted for public display to satisfy this criterion would defeat the restrictive nature of [s]ection 203(b)(1)(A) of the Act, and would render this criterion meaningless. To meet the restrictive nature of the regulations, the petitioner must show that the beneficiary's artistic exhibitions and showcases elevate her to the very top of her field. The petitioner has not shown that the beneficiary's exhibitions enjoy a national reputation or that participation in these exhibitions was a privilege extended only to top artists in the field. Consequently, the petitioner has not . . . established that the beneficiary meets this criterion.

On appeal, counsel states:

In the RFE, the Officer asked for verification of the significance of the Beneficiary's exhibitions. This was provided in the expert opinion letter of [REDACTED]. However, the Officer stated that that the letters and photos which the Beneficiary submitted verifying the exhibition of her work did not establish the significance of the events. He apparently did not read, or did not take into consideration what [REDACTED] attested to.

The assertions of [REDACTED] which were based primarily on his review of the "list" provided to him by the petitioner (rather than first-hand documentary evidence), are not adequate to establish the significance of the beneficiary's exhibitions. As stated previously, where an opinion is not in accord with other information or is in any way questionable, the AAO is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. at 791. It must be stressed that an artist does not satisfy this criterion simply by arranging for her work to be displayed. In this case, the petitioner has not submitted evidence showing that the beneficiary's works have been displayed at significant artistic venues consistent with sustained national or international acclaim at the very top of her field. There is no indication that the beneficiary's works have been featured along side those of artists who enjoy national or international reputations, that she has participated in shows or exhibitions at significant venues devoted primarily to the display of her work alone, that renowned art museums have displayed the petitioner's work, or other evidence of the display of her work that is consistent with sustained national or international acclaim in her field.

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

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 submitted the following:

1. A March 4, 2002 letter from CN Art and Framing in Bogota, Colombia stating that the beneficiary's works "have been sold for more than 3,000,000 pesos."
2. A November 15, 2002 from Comercial Quimar S.A. stating that the beneficiary's works have sold for "more than \$1,500" in Costa Rica
3. An August 15, 2005 letter from Casa Marques Design and Furniture stating that the beneficiary's work "Abstract Bananas" "was sold for \$10,000,000 pesos, and was placed in the Club Nogal in Bogota."
4. An October 5, 2005 letter from [REDACTED] stating that the "price range" for the beneficiary's paintings was "about 4,000.00."

Only one of the preceding letters, item 3, identifies a specific work by the beneficiary and the price for which it was actually sold. Regarding items 1 through 4, these letters contain information about the sales price of the beneficiary's artwork, but they do not indicate the amount of compensation earned by her. Further, the record includes no documentation (such as the beneficiary's Form W-2, Wage and Tax Statement or income tax returns) showing her actual earnings for any given period of time prior to the petition's filing date.

In response to the director's request for evidence, the petitioner submitted checks payable to the beneficiary from buyers of her artwork and check stubs from her employer, Sundance Graphics, dated 5/5/2006, 4/21/2006, 3/1/2006, 1/13/2006, and 4/28/2006. The beneficiary received this remuneration subsequent to 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)(12); *see Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider this documentation in this proceeding.

The petitioner's response included the April 24, 2006 letter from [REDACTED] asserting that the beneficiary's "art sells consistently for up to \$4,000.00." This criterion, however, calls for evidence that the beneficiary "has commanded a high salary or other significantly high remuneration." [REDACTED] conclusion is based on the above four letters from those who state they have sold the beneficiary's artwork. However, the petitioner has not established what percentage of the sales price was actually earned by the beneficiary. [REDACTED] further states that in his judgment the beneficiary "commands 'a high salary or other significantly high remuneration for services in relation to others in the field.'" [REDACTED] letter, however, does not cite any salary or remuneration data for "others in the field" upon which his conclusion is based. As stated previously, where an opinion is not in accord with other information or is in any way questionable, the AAO is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. at 791.

In addressing the evidence submitted for this criterion, the director's decision stated:

With the petition, the petitioner submitted several letters which indicated the selling price of the beneficiary's works. In response to the request for evidence, the petitioner submitted copies of checks the beneficiary received for her work. All of the checks are dated after the petition was filed and thus cannot be considered. The petitioner did not submit evidence that the beneficiary's salary is high when compared to all other artists in the field. The petitioner has not established that the beneficiary's salary places her at the top of her field. The petitioner has not established that the beneficiary meets this criterion.

We concur with the director's findings. The plain language of this regulatory criterion requires the petitioner to submit evidence that the beneficiary commands "a high salary or other significantly high remuneration . . . *in relation to others in the field.*" [Emphasis added] The petitioner offers no basis for comparison (such as salary statistics from the U.S. Department of Labor) showing that the beneficiary's compensation was significantly high in relation to others in her field in manner consistent with 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 failed to demonstrate the beneficiary's receipt of a major, internationally recognized award, or that she meets at least three of the criteria that must be satisfied to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

Documentation in the record indicates that the alien was the beneficiary of an approved O-1 nonimmigrant visa petition filed in her behalf in 2003. Although the words "extraordinary ability" are used in the Act for classification of artists under both the nonimmigrant O-1 and the first preference employment-based immigrant categories, the statute and regulations define the term differently for each classification. Section 101(a)(46) of the Act states, "The term 'extraordinary ability' means, for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction." The O-1 regulation reiterates that "[e]xtraordinary ability in the field of arts means distinction." 8 C.F.R. § 214.2(3)(ii). "Distinction" is a lower standard than that required for the immigrant classification, which defines 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 evidentiary criteria for these two classifications also differ in several respects, for example, nominations for awards or prizes are acceptable evidence of O-1 eligibility, 8 C.F.R. § 214.2 (3)(iv)(A), but the immigrant classification requires actual receipt of nationally or internationally recognized awards or prizes. 8 C.F.R. § 204.5(h)(3)(i). Given the clear statutory and regulatory distinction between these two classifications, the petitioner's prior receipt of O-1 nonimmigrant classification is not evidence of her eligibility for immigrant classification as an alien with extraordinary ability.

Review of the record does not establish that the beneficiary has distinguished herself 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 her field. The evidence is not persuasive that the beneficiary's achievements set her significantly above almost all others in her 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.



Page 11

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.