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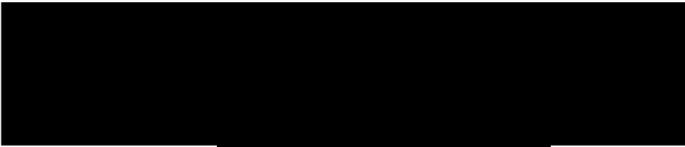
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: FEB 25 2008  
SRC 06 089 51221

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.

Σ Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner 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 the beneficiary's sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, the petitioner requests that this petition be amended to seek a lesser classification. Specifically, the petitioner now seeks classification as a skilled worker pursuant to section 203(b)(3) of the Act. First, the petitioner cites no legal authority that would allow the petitioner to seek a lesser classification on appeal. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Commr. 1998). Moreover, a petition filed under section 203(b)(3) of the Act must be accompanied by an Alien Employment Certification *approved by the Department of Labor*. 8 C.F.R. § 204.5(1)(3)(i). The petitioner did not submit an Alien Employment Certification *approved by the Department of Labor*. Thus, the instant petition could not properly be considered as properly filed pursuant to section 203(b)(3) of the Act.

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, 60898-9 (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).

This petition seeks to classify the beneficiary as an alien with extraordinary ability as a mechanical engineering technician. 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 the following 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.

- (i) Documentation of the alien’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- (ii) 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;
- (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;
- (iv) 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 specialization for which classification is sought;
- (v) Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
- (vi) Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media;
- (vii) Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases;
- (viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;
- (ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or

(x) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

Initially, the petitioner submitted a letter verifying the beneficiary's past employment for [REDACTED] the petitioner's personal income tax returns, an untranslated certificate, the job description for a fleece processor and technician and the technical specifications for the mini processing mill.

On March 13, 2006, the director advised the petitioner of the ten criteria and requested evidence that the beneficiary meets at least three of those criteria. In response, the petitioner submitted a personal statement asserting that the beneficiary is the designer of equipment needed to convert Alpaca fleece into knittable yarn. The petitioner further asserts that, with the beneficiary's help, he has created five part-time jobs and will employ the beneficiary full-time. The petitioner submitted photographs of the equipment, unprocessed alpaca fleece and end-stage yarn.

The director concluded that the petitioner had failed to submit evidence of the beneficiary's sustained national or international acclaim. On appeal, the petitioner submitted a letter from [REDACTED] County Extension Director for the University of Florida Extension Institute of Food and Agricultural Sciences. [REDACTED] asserts that the beneficiary's ability to design equipment that can process alpaca fleece is a unique skill. The petitioner also submitted an article in an unidentified newspaper about the petitioner's alpaca ranch. The article mentions the beneficiary.

The statute requires extensive documentation to establish eligibility for this classification. The regulations require that an alien of extraordinary ability be able to demonstrate sustained national or international acclaim. Assuming that the beneficiary is a talented engineer, the record does not reflect that he has attained any national acclaim for that talent. Specifically, other than the newspaper article submitted on appeal, the petitioner has not submitted documentation that relates to any of the ten criteria. The petitioner has not demonstrated that the article appeared in major media. Moreover, the article is not about the beneficiary and does not even mention that he designed the alpaca fleece processing equipment. Thus, this single article cannot meet the criterion set forth at 8 C.F.R. § 204.5(h)(3)(iii), quoted above. We note that the record even lacks a patent or patent application documenting the beneficiary's role as a designer of alpaca fleece processing equipment.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the beneficiary has distinguished himself as an engineer 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. 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.