



U.S. Citizenship
and Immigration
Services

PUBLIC COPY
Identifying data deleted
prevent clearly unwarranted
invasion of personal privacy

B2

[REDACTED]

FILE:

EAC 05 060 50420

Office: VERMONT SERVICE CENTER

Date:

MAY 01 2008

IN RE:

Petitioner:

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:

[REDACTED]

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, Chief
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the Administrative Appeals Office (AAO) on appeal.¹ On April 11, 2008, the petitioner requested that her appeal be withdrawn. The appeal will be dismissed based on its withdrawal by counsel. The AAO will also enter a separate administrative finding of fraud and material misrepresentation.

The petitioner sought 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. Part 6 of the Form I-140 petition listed the petitioner's job title as "Root Carving Artist." The director determined the petitioner had not established that she qualifies for classification as an alien of extraordinary ability.

On March 14, 2008, in accordance with the regulation at 8 C.F.R. § 103.2(b)(16)(i), this office issued a notice advising the petitioner of derogatory information indicating that she submitted falsified material in support of her petition. The notice specifically observed that the petitioner signed the Form I-140, thereby certifying under penalty of perjury that "this petition and the evidence submitted with it are all true and correct."

Regarding the falsified documentation and its materiality to these proceedings, the AAO's notice stated:

8 C.F.R. § 204.5(h)(3)(vii) calls for evidence of the display of the alien's work in the field at artistic exhibitions or showcases. In support of the petition, you submitted what is alleged to be evidence of your "Chinese Root Wood Sculpture Exhibition – 'Dream of Roots'" at the World Journal Gallery in Whitestone, New York in January 1999. After further investigation, it has been determined that this document pertaining to your exhibition was falsified. You fraudulently substituted your name into an artistic promotion for [REDACTED] and misrepresented his biography, achievements, and artwork as your own. The AAO was able to obtain the original material at <http://www.nyjpw.org/ev011199.htm> (accessed on February 27, 2008). Attached to this notice is the document you plagiarized and then altered by replacing the name "[REDACTED]u" with "[REDACTED]

By submitting the preceding falsified document and misrepresenting your artistic achievements, you have sought to obtain a visa by fraud and willful misrepresentation of a material fact. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.* at 591.

¹ The petitioner was initially represented by attorney Dennis B. Lan, who submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, on appeal. In this decision, the term "previous counsel" shall refer to [REDACTED]

