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U.S. Citizenship
and Immigration
Services

B₂

FILE: [REDACTED]
EAC 06 110 50347

Office: VERMONT SERVICE CENTER

Date: **JAN 08 2009**

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)

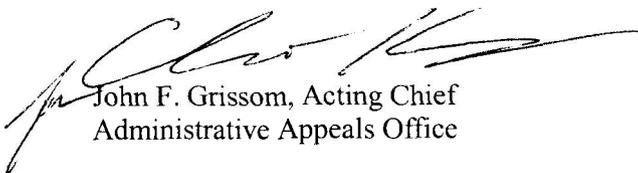
ON BEHALF OF PETITIONER:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The petition is now before the Administrative Appeals Office (AAO) 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 sciences. 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 has 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 sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a researcher in zoology and behaviorism. 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.

The petitioner did not allege that she met any of the regulatory criteria. With the petition, the petitioner submitted documentation, which presumably was evidence of the following criteria:

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The petitioner submitted a February 25, 2006 letter of recommendation from [REDACTED], a researcher in veterinary medicine at Chungbuk National University of Korea. [REDACTED] stated that he and the petitioner discussed her work in zoology and the "behavioral therapy for the amelioration of internal secretion of animal, as an auxiliary method for the treatment of veterinary diseases." According to [REDACTED], the petitioner's "analysis of [the] problem is so detailed and profound that I could immediately adopt her suggestion in my work with instant effect." [REDACTED] further stated that the petitioner's "research does [not] stop at [the] phenomenological level; instead, her research has touched the essence that determines phenomenon, thus more fitting the purpose of scientific research and the need of serving human society."

While [REDACTED] stated that the beneficiary assisted him in his work, he does not indicate that the petitioner has made any major contributions to the field of zoology. In fact, he indicated that the petitioner's work is what is expected of the purpose of scientific research.

The evidence does not establish that the petitioner meets this criterion.

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

The petitioner submitted a "sample of the synopsis" of her lecture, "[REDACTED] [REDACTED]." The petitioner submitted no evidence that her lecture or the synopsis had been published. The petitioner submitted no evidence that she meets this criterion.

In a November 20, 2006 letter, the director notified the petitioner that the U.S. Citizenship and Immigration Services (USCIS) intended to deny the petition, as she had failed to provide extensive supporting documentation to prove that she met the regulatory criteria as an alien of extraordinary ability. The petitioner was provided with 30 days in which to submit additional evidence. The petitioner, however, did not respond to the director's notice.

On appeal, the petitioner submitted a letter in which she alleges that she has access to research that was conducted in her province during the last century "by unusual ways." The petitioner alleges that her access to this research "enriches my extraordinary ability." However, the petitioner submitted no other documentation to establish that she meets any of the criteria set forth in the regulation.

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 her field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished herself as a researcher or to be within the small percentage at the very top of her field. 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.