

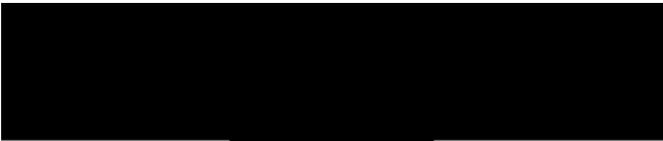


U.S. Citizenship
and Immigration
Services

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FILE:

SRC 06 039 52819

Office: TEXAS SERVICE CENTER

Date: **MAY 04 2009**

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:

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).

J. Grissom
John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center. The petitioner filed an appeal with the Administrative Appeals Office (AAO), which remanded the matter to the director for further action and consideration. The director denied the petition again. The matter is now before the 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 that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. More specifically, the director found that the petitioner had failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, the petitioner argues that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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.

U.S. Citizenship and Immigration Services (USCIS) 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 he has sustained national or international acclaim at the very top level.

This petition, filed on November 18, 2005, seeks to classify the petitioner as an alien with extraordinary ability as a forester. 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 petitioner 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.¹

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

The petitioner submitted his certificates of attendance, participation, and completion for various training courses, seminars, and workshops in which he was enrolled, but these certificates are not "prizes or awards." The petitioner has not established that these certificates were presented for excellence in the field rather than his fulfillment of career training requirements. Successful completion of a training course is not tantamount to the petitioner's receipt of a nationally or internationally recognized prize or award for excellence in the field.

The petitioner submitted a "1999 Environmentalist Awardee of the Year" commendation certificate issued to him by his immediate employer at that time, the National Power Corporation, Quezon City, Philippines. The director found that this award reflects institutional recognition rather than national or international recognition. We concur with the director's finding.

The petitioner submitted a "Service Award" (1998) from the National Power Corporation for his "Ten Years of dedicated service to the CORPORATION." This award reflects institutional recognition for length of service rather than national or international recognition for excellence in the field.

On appeal, the petitioner asserts that the National Power Corporation "is a government-owned and controlled corporation and ranked as the top corporation in the country." The record does not include evidence to support the petitioner's assertion. 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)). Nevertheless, the plain language of the

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally *recognized* in the field of endeavor and it is his burden to establish every element of this criterion. In this case, there is no evidence showing that the "1999 Environmentalist Awardee of the Year" commendation or the ten-year length of service award had a significant level of recognition beyond the petitioner's employer.

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

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.

In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted his Certificate of Membership for the Society of Filipino Foresters. The record, however, does not include evidence (such as membership bylaws or official admission requirements) showing that the Society requires outstanding achievements of its members, as judged by recognized national or international experts in the petitioner's field or an allied one.

On appeal, the petitioner submits copies of his Board Ratings and Board Certificate from the Professional Regulation Commission of the Philippines Board of Foresters. The petitioner states that these documents show that he is "a Licensed and Registered Forester by the Professional Regulation Commission," but he acknowledges that the preceding evidence may not comply with the requirements of this regulatory criterion. There is no evidence demonstrating that being licensed or registered by the preceding commission is tantamount to membership in an association in the field requiring outstanding achievements of its members, as judged by recognized national or international experts.

In light of the above, the petitioner has not established that he 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

petitioner'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).

The petitioner submitted an October 1, 2005 letter from Vice President, National Power Corporation, Northern Luzon Regional Center, stating:

[The petitioner] was . . . chosen to become one of the panel of judges in the '1998 Regional Search For The Best Power Plant and Transmission Line Facility in the Northern Luzon Region.' The scope of the contest includes cleanliness, good housekeeping, safety, environmental and watershed management performance, community relations and other related aspect of plant operations and maintenance.

The director found that that the petitioner's participation as a judge in a "regional" competition organized by his immediate employer in 1998 was not indicative of sustained national or international acclaim. We concur with the director's finding.

On appeal, the petitioner argues that the director did not adequately explain "the exact details" relating to the deficiencies in the evidence submitted for this criterion. The plain language of this regulatory criterion requires "[e]vidence of the alien's participation . . . as a judge of the work of others." There is no evidence showing the names of the facilities or individuals evaluated by the petitioner and documentation of his assessments. Further, the letter from [REDACTED] does not specify which contest categories (i.e., good housekeeping) the petitioner evaluated and their relevance to forestry. We cannot conclude that serving on a panel for a regional competition at the request of one's immediate employer is consistent with sustained national or international acclaim at the very top of the field.

In light of the above, the petitioner has not established that he 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 evidence showing that he prepared an "Environmental Exchange Program Participant Report" summarizing his training program at the University of California, Berkeley in 2000. We cannot conclude that the petitioner's participant report from this training program qualifies as a scholarly article authored by him. Rather, the report is mostly a compilation of scholarly articles written by others. On appeal, the petitioner acknowledges that his report "was not published in a professional or major trade publication" or some other form of major media. Accordingly, the petitioner has not established that he meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

On appeal, the petitioner argues that he performed in a leading and critical role for the National Power Corporation. At issue for this criterion are the position the petitioner was selected to fill and the reputation of the entity that selected him. In other words, the position must be of such significance that the alien's selection to fill the position, in and of itself, is indicative of or consistent with national or international acclaim.

The October 1, 2005 letter from [REDACTED] states that the petitioner worked for the National Power Corporation as a "Technical Assistant" in the Northern Luzon Regional Center. There is no evidence showing that the National Power Corporation had a distinguished reputation during the petitioner's employment or that his position with the company was leading or critical. The petitioner's evidence does not demonstrate how his role differentiated him from the other technical assistants and specialists in his region or throughout the country, let alone the company's more senior management. The documentation submitted by the petitioner does not establish that he was responsible for his employer's success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim. Accordingly, the petitioner has not established that he 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 a certification from the Administration Manager, Generation Company 2, National Power Corporation, specifying his total income in 2002. In addressing the petitioner's evidence, the director's decision stated: "The petitioner did not offer a basis for comparison showing that his compensation was significantly higher in relation to others in his field. There is no evidence that the petitioner earns a level of pay that places him among the highest paid forestry specialist[s] at the national or international level." We concur with the director's findings.

On appeal, the petitioner asserts that foresters employed by the National Power Corporation earned a higher salary than those employed by the Philippine "Department of Environment & Natural Resources." The record does not include evidence to support the petitioner's assertion. 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. at 158, 165 (citing *Matter of Treasure Craft of California*, 14 I&N at 190). There is no objective and reliable national salary data demonstrating that the petitioner has commanded significantly high earnings in relation to others in his field.

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

In this case, we concur with the director's finding that the petitioner has failed to demonstrate his receipt of a major internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the national or international acclaim necessary to qualify as an alien of

extraordinary ability. 8 C.F.R. § 204.5(h)(3). The conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

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 a 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.

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.