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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship and Immigration Services

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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: SEP 25 2009
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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:
[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.

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, Nebraska 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. The director determined that the petitioner had not established that he sought to enter the United States for the purpose of continuing in his area of expertise.

On appeal, counsel for the petitioner argues that the petitioner submitted sufficient documentation that he intends to continue work in his field of endeavor and that he meets the statutory requirements and 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 to the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and the 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 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).

This petition, filed on January 16, 2008, seeks to classify the petitioner as an alien with extraordinary ability as a Tibetan Living Buddha and singer. In his February 8, 2008 letter accompanying the petition, counsel stated:

[The petitioner] has been recognized as a reincarnated Living Buddha of Qinghai Tashi Shing Temple since he turned to [sic] age 16. [REDACTED] is the name for Living Buddha who has lived through several lives, enjoying a supreme social status in Tibetan Buddhist area. The 8th Singa Rinpoche represents Zhigong Kargyupa Branch of Tibetan Buddhism, also known as white teaching. As an untraditional Living Buddha, [the petitioner] combines his mission of religious promotion with his exceptional talents in singing, propagandizing Buddhist doctrine in a fashionable manner. As such, [he] writes spiritual books on Buddhism, records Buddhist music, hosts conversion ritual ceremony, which is well received by his audience in Taiwan, a region with more religious freedom than the mainland China.

Counsel further stated that the petitioner's "intention to continue work in his area of endeavor is self-evident by virtue of the fact that he plans to promote Buddhism in the United States" and that the grant of permanent resident status "will afford [him] the opportunity to [explore] and possibly work beyond the permitted duration and condition of his current B1 visa, while also freeing him to perform other religious services in the U.S."

In response to the director's request for evidence (RFE) dated June 12, 2008, the petitioner submitted a statement in which he stated:

I was recognized as a reincarnated Living Buddha in Tibetan Buddhist area when I was age 16, which led my life out of the ordinary and entrusted me [with] a mission to promote Buddhism to the world.

Coming to the United States is based on my belief that religion is not divided into different nations and races. I, as a Living Buddha, do speak highly of other religion which also guides people to be kindhearted, loving and caring. I might be different from other religious figures, because I have been trying to spread Buddhism far and wide by writing and singing. I want every individual in the world to be happy, fulfilled and giving.

Although nowadays, this world is full of materialistic staff [sic], wealthier than before, it became more ruthless and tyrannical. A lot of people are feeling hopeless and leading their lives devoid of meaning. I can see the pain. Not alike [sic] other Living Buddha, I try to immerse myself among the common people, go down to the grass-roots in society, in order to realize their pain and needs, and understand what they hope for. Besides practicing Buddhism, I wish to deliver my

idea of how to relieve a mental burden and inner pain, through my book and music, to every corner of the world. I would assist people to discover kindness and love from their own hearts, so they can find true happiness and hope. . . .

Religious belief is neither spiritual product nor literary arts. It is never a product to please one's heart, it is the basis to lead each individual to understand one's life and the world. I will spread Buddhism for the rest of my life to complete my mission, and wish every human being in the world has his own faith.

The record therefore establishes that the petitioner is recognized as a reincarnated Living Buddha and his area of expertise is in the field of religion. Section 203(b)(1)(A)(i) of the Act provides that a visa would be made available to those aliens who could demonstrate extraordinary ability in the sciences, arts, education, business, or athletics. Religion is not one of the fields of discipline that qualifies under this visa category.

On appeal, counsel asserts that the petitioner seeks entry into the United States as an alien of extraordinary ability in social science and liberal art. Counsel states:

The petitioner has been recognized as a reincarnated Living Buddha and was named "[REDACTED]" representing the one who has lived through several lives. However, the petitioner refused to be considered as any kind of God or a supernatural being. Instead, he consistently emphasized that he is an ordinary man of flesh and blood The only difference that distinguishes him from others in his insightful wisdom towards life. As a result, instead of wearing kasaya, worshiping in the temple or promoting Buddhist moral codes, the petitioner was sharing his views of how to live a happy life without mental burden and inner pain with the public. . . . These lessons are not paranormal, but within the scope of liberal art or social science. Moreover, in order to assist people to discover kindness and live from their own hearts, the petitioner then delivered his ideas or view through all forms of art, including but not limited to, singing, writing and speeches.

That the petitioner has chosen to exercise his position as a Living Buddha differently than those who have preceded him does not make the position less of a religious figure. He is still recognized as a religious leader and teacher and proclaimed that his intention upon being admitted to the United States is to continue his religious teaching. That the petitioner uses different media, such as singing or writing as teaching tools, does not change his field of endeavor from religion to art.

On appeal, counsel asserts that the petitioner's work falls within the realm of liberal art and social science. However, neither of these fields is included in the disciplines recognized as eligible for consideration under section 203(b)(1)(A)(i) of the Act. Counsel advances no theory or argument that the field of liberal art is one of the arts or that social science is one of the sciences as those disciplines are contemplated in the Act. Furthermore, in his letter

accompanying the initial submission, counsel indicated that the petitioner's field of expertise was "Tibetan Living Buddha, Promoter of Buddhism Spirituality & Professional Singer."

The petitioner also indicated on his Form I-140, Immigrant Petition for Alien Worker, that he is a singer and that his proposed employment is as a "Buddalism [*sic*] Believer and Professional Entertainer." Nonetheless, the documentation submitted by the petitioner, including newspaper articles, his recordings and his book, do not indicate a profession or career separate or distinct from his position as a Living Buddha. Accordingly, the record does not establish that the petitioner's area of expertise is as a singer or in the area of professional entertainment.

Additionally, in his statement regarding his intentions upon entering the United States, the petitioner indicates that he intends to write books, produce music, start a television show, and is in talks for a movie script. He makes it clear that his purpose is to proselytize Buddhism, a religious endeavor associated with his religious position.

The petitioner is statutorily ineligible for this visa classification as he has failed to establish that his area of expertise is one eligible for consideration under section 203(b)(1)(A)(i) of the Act. In addition, he has clearly not shown that he has earned sustained national or international acclaim as a Living Buddha.

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.