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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

DATE **MAY 21 2013**

Office: NEBRASKA SERVICE CENTER

FILE: [REDACTED]

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:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska 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, a caricaturist, 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 arts. 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.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate “sustained national or international acclaim” and present “extensive documentation” of his or her achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement, specifically a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific evidence. 8 C.F.R. §§ 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, counsel submits a brief. For the reasons discussed below, upon review of the entire record, the AAO upholds the director's conclusion that the petitioner has not established eligibility for the exclusive classification sought.

The AAO notes that on January 23, 2013 in accordance with the regulation at 8 C.F.R. § 103.2(b)(16)(i), the AAO issued a notice advising the petitioner of derogatory information. In response to the notice, the petitioner submitted sufficient evidence to overcome the finding.

I. LAW

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* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion.¹ With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this matter, the AAO will review the evidence under the plain language requirements of each criterion claimed.

¹ Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

II. ANALYSIS

A. Evidentiary Criteria²

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

The director discussed the submitted evidence in his denial and found that the petitioner did not meet this criterion. The petitioner initially submitted evidence of three awards, but counsel only addresses one on appeal. Since counsel does not contest the director's findings or offer additional arguments regarding the other awards, the petitioner has abandoned any claims regarding the other awards. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir.2005); *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885 at *9 (E.D. N.Y. Sept. 30, 2011) (plaintiff's claims were abandoned as he failed to raise them on appeal to the AAO).

On appeal, counsel asserts that, regarding the [REDACTED] in China," letters from [REDACTED] noted the prestigious quality of this award, and...the Director of Public Relation[s], [REDACTED] (Iran) personally congratulated the petitioner on winning the award." Although counsel asserts that "[t]he Director discounted" the award "because he claimed that there was not 'proper documentation regarding the issuance of the award,[]'" the director also stated in the denial that "the petitioner failed to submit any evidence regarding who was eligible and what judging criteria were used in selecting the [REDACTED]"

The record contains a copy of a [REDACTED] certificate from the [REDACTED] [REDACTED] which contains the petitioner's name, a caricature and the words "China, 2005". The supporting information in the record, though purported to be about the [REDACTED] festival, actually refers to the [REDACTED]. Furthermore, the information regarding the [REDACTED] provides conflicting information regarding the dates and location of the festival. One article from an unknown internet website states that "[t]he [REDACTED] took place October 3-6 in Beijing China." A second article from what appears to be [REDACTED] website states that "[t]he [REDACTED] will be held in Zhengzhou, capital of central China's Henan Province, from October [REDACTED]"

The letter from the Director of Public Relation[s] at the [REDACTED] refers to the award of a [REDACTED] and is simply congratulatory in nature.

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*,

² The petitioner does not claim to meet or submit evidence relating to the regulatory categories of evidence not discussed in this decision.

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.

The letter from [REDACTED] of the [REDACTED] states that the petitioner "has won some of the most prestigious awards in her art, including the [REDACTED] at the [REDACTED]. The letter from [REDACTED] Editorial Cartoonist at [REDACTED] states that the petitioner "has won some of the most prestigious awards in her art, including the [REDACTED] in the [REDACTED] in China in 2005." 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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Furthermore, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires evidence of "prizes or awards" in the plural, which is consistent with the statutory requirement for extensive evidence. Section 203(b)(1)(A)(i) of the Act. Significantly, not all of the criteria at 8 C.F.R. § 204.5(h)(3) are worded in the plural. Specifically, the regulations at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix) only require service on a single judging panel or a single high salary. When a regulatory criterion wishes to include the singular within the plural, it expressly does so as when it states at 8 C.F.R. § 204.5(k)(3)(ii)(B) that evidence of experience must be in the form of "letter(s)." Thus, the AAO can infer that the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation.³ Therefore, even if USCIS found the above referenced award to be a lesser nationally or internationally recognized prize, which it does not, the petitioner did not submit qualifying evidence of receipt of more than one nationally or internationally recognized prize or award.

The burden is on the petitioner to demonstrate the level of recognition and achievement associated with her awards and establish that she meets every element of this criterion. In light of the above, the petitioner has not established that she meets the plain language requirements of this regulatory 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.

The director discussed the submitted evidence and found that the petitioner failed to establish that the evidence was qualifying. On appeal, the petitioner does not contest the director's findings for this

³ See *Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at 12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(1)(2) requires a single degree rather than a combination of academic credentials).

criterion or offer additional arguments. This issue is therefore considered to be abandoned. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1228 n. 2, *Hristov v. Roark*, 2011 WL 4711885 at *9 (plaintiff's claims were abandoned as he failed to raise them on appeal to the AAO).

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.

The director found that the petitioner satisfies the plain language requirements of the regulation at § 204.5(h)(3)(iii) and the AAO affirms that finding.

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 director found that the petitioner satisfies the plain language requirements of the regulation at § 204.5(h)(3)(iv) and the AAO affirms that finding.

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

The director discussed the evidence submitted for this criterion and found that the petitioner failed to establish that the evidence was qualifying. While the record contains a number of letters praising the petitioner's work, the letters fail to put this evidence in the necessary context to reach a conclusion that she has made *original contributions of major significance*.

On appeal, counsel asserts that the previously mentioned letters from [REDACTED] are evidence of the petitioner's "extraordinary ability" and of "the original and unique nature of the petitioner's art." The letters praise the petitioner for her work, but do not establish that she has made original contributions of major significance in the field. These letters affirm the originality of her work, but not its impact on the field at a level consistent with a contribution of major significance in the field.

The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

Vague, solicited letters from local colleagues that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient. *Kazarian*

v. USCIS, 580 F.3d 1030, 1036 (9th Cir. 2009) *aff'd in part* 596 F.3d 1115 (9th Cir. 2010).⁴ The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as this decision has done above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. at 165. USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

In light of the above, the petitioner has not established that she meets the plain language requirements of this regulatory criterion.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.

The director found that the petitioner satisfies the plain language requirements of the regulation at § 204.5(h)(3)(vii) and the AAO affirms that finding.

B. Summary

In light of the above, the petitioner has submitted the requisite evidence under at least three of the evidentiary categories for which evidence must be submitted to meet the minimum eligibility requirements necessary to qualify as an alien of extraordinary ability. A final merits determination that considers all of the evidence follows.

C. Final Merits Determination

In accordance with the *Kazarian* opinion, the next step is a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2); and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(3). *See Kazarian*, 596 F.3d at 1119-20.

⁴ In 2010, the *Kazarian* court reiterated that the AAO's conclusion that "letters from physics professors attesting to [the alien's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122.

The classification sought requires “extensive documentation” of sustained national or international acclaim. See section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing the statute provide that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991).

Upon review of the entire record, the petitioner has failed to establish that she is one of the small percentage who has risen to the top of her field or that the petitioner has sustained national or international acclaim, as required by 8 C.F.R. §§ 204.5(h)(2) and (3).

Regarding the awards criterion, which the petitioner did not meet, the record does not contain evidence of a single award since 2005. The record also lacks evidence that any of the awards are nationally or internationally recognized for excellence. The submitted evidence was not demonstrative of sustained national or international acclaim and was not extensive.

Regarding the published material criterion, not all of the published material meets the requirements set forth at 8 C.F.R. § 204.5(h)(3)(iii). While the petitioner submitted independent circulation information regarding a few of the sources, not all of the publications qualify as professional or major trade publications or other major media. Specifically, the record is not supported by multiple articles in national publications and there is no evidence that major newspapers have referenced the petitioner as being at the top of her field. See *Matter of Price*, 20 I&N Dec. 953, 955-55 (Act. Assoc. Comm’r 1994).

The evidence relating to judging is limited to one event in 2002 and therefore is not extensive documentation of extraordinary ability. The petitioner was chosen to be a judge by the editor of the magazine the petitioner was employed by and, thus, is not indicative of any recognition beyond the magazine where she worked. The petitioner’s participation as a judge nine years prior to the filing of the petition is also not demonstrative of sustained national or international acclaim.

In regard to the documentation submitted for 8 C.F.R. § 204.5(h)(vii), although USCIS finds that the petitioner meets the plain language of the display criterion pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(vii), it is expected that an artist would display her at exhibitions and showcases. However, the record contains no evidence to show, for instance, that the petitioner’s exhibitions garnered any attention in a manner consistent with sustained national or international acclaim. For example, the petitioner failed to submit any documentary evidence reflecting that the exhibitions brought any critical acclaim or drew record crowds. The submitted evidence fails to demonstrate a level of distinction that sets the petitioner’s artistic displays apart from those of most others in her field. An artist does not demonstrate sustained national or international acclaim by arranging for her work to be displayed or by entering artistic competitions. In this case, the petitioner has not submitted evidence showing that her works have been featured along side those of artists who enjoy national or international reputations. Further, the petitioner has not demonstrated her frequent participation in

shows or exhibitions at major venues devoted to the display of her work alone. Moreover, the evidence submitted by the petitioner does not indicate that participation in her exhibitions was a privilege extended to only top national or international artists.

USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for immigrant classification as an alien of “extraordinary ability.” *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994); 56 Fed. Reg. at 60899. In *Matter of Racine*, 1995 WL 153319 at *1, *4 (N.D. Ill. Feb. 16, 1995), the court stated:

[T]he plain reading of the statute suggests that the appropriate field of comparison is not a comparison of Racine’s ability with that of all the hockey players at all levels of play; but rather, Racine’s ability as a professional hockey player within the NHL. This interpretation is consistent with at least one other court in this district, *Grimson v. INS*, No. 93 C 3354, (N.D. Ill. September 9, 1993), and the definition of the term 8 C.F.R. § 204.5(h)(2), and the discussion set forth in the preamble at 56 Fed. Reg. 60898-99.

The court’s reasoning indicates that USCIS’ interpretation of the regulation at 8 C.F.R. § 204.5(h)(2) is reasonable. Likewise, it does not follow that the petitioner, who has not offered any evidence that distinguishes her from other caricaturists, should necessarily qualify for approval of an extraordinary ability employment-based visa petition. To find otherwise would contravene the regulatory requirement at 8 C.F.R. § 204.5(h)(2) that this visa category be reserved for “that small percentage of individuals that have risen to the very top of their field of endeavor.”

The conclusion reached by considering the evidence to meet each category of evidence at 8 C.F.R. § 204.5(h)(3) separately is consistent with a review of the evidence in the aggregate. Ultimately, the evidence in the aggregate does not distinguish the petitioner as 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 petitioner seeks a highly restrictive visa classification, intended for individuals at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time. In this case, the petitioner has not established that her achievements at the time of filing the petition were commensurate with sustained national or international acclaim, or that she was among that small percentage at the very top of the field of endeavor.

The truth is to be determined not by the quantity of evidence alone, but by its quality. *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010) citing *Matter of E-M*- 20 I&N Dec. 77, 80 (Comm’r 1989).

D. Continue to work in the area of extraordinary ability

Beyond the decision of the director, the statute and regulations require that the petitioner seeks to continue work in her area of expertise in the United States. See section 203(b)(1)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(1)(A)(ii); 8 C.F.R. § 204.5(h)(5).

The regulation at 8 C.F.R. § 204.5(h)(5) provides:

No offer of employment required. Neither an offer for employment in the United States nor a labor certification is required for this classification; however, the petition must be accompanied by clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States.

The record contains a statement from the petitioner that she is “willing to have exhibitions of my artwork,...willing to sell some of my original work,...willing to publish a book,...willing to attend the[] annual convention [of the International Society of Caricature Artists],...[and] planning to publish my work in magazines.” The petitioner submitted no contracts, offers of employment or any other detailed and specific information regarding future plans with any publisher, magazine or gallery.

Although the petitioner did submit a letter from [REDACTED] Art Director of [REDACTED] in Laurel, Maryland, the letter states that the gallery will offer the petitioner employment “to teach on a weekly basis” once “she is [employment] authorized.” The petitioner lives in Los Angeles, California and does not mention this offer, nor an intent to move to Maryland, in her statement. Furthermore, in Part 5 of Form I-140, Immigrant Petition for Alien Worker, the petitioner listed her occupation as “Artist-Caricaturist” and listed the same as her job title in Part 6. Thus, the record reflects that the petitioner is seeking classification as an alien of extraordinary ability as an artist/caricaturist rather than as a teacher.

The statute and regulations require the petitioner’s national or international acclaim to be sustained and that she seeks to continue work in her area of expertise in the United States. *See* sections 203(b)(1)(A)(i) and (ii) of the Act, 8 U.S.C. §§ 1153(b)(1)(A)(i) and (ii), and 8 C.F.R. §§ 204.5(h)(3) and (5). While an artist/caricaturist and a teacher share knowledge of the genre, the two rely on very different sets of basic skills. Thus, instruction and drawing are not the same area of expertise. This interpretation has been upheld in federal court. In *Lee v. I.N.S.*, 237 F. Supp. 2d 914 (N.D. Ill. 2002), the court stated:

It is reasonable to interpret continuing to work in one’s “area of extraordinary ability” as working in the same profession in which one has extraordinary ability, not necessarily in any profession in that field. For example, Lee’s extraordinary ability as a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach.

Id. at 918. The court noted a consistent history in this area. While the AAO acknowledges the possibility of an alien’s extraordinary claim in more than one field, such as artist/caricaturist and

teacher, the petitioner, however, must demonstrate “by clear evidence that the alien is coming to the United States to continue work in the area of expertise.” See 8 C.F.R. § 204.5(h)(5).

In further contrast to the petitioner’s claims regarding her intended future work in the United States as a caricaturist, the record reflects that the petitioner was a dentist in Iran and has listed no employment since coming to the United States. Rather, the petitioner is currently enrolled in a preceptorship program for Advanced/Graduate Dentistry at the [REDACTED]

Given the lack of specific evidence regarding the petitioner’s detailed plans in her claimed area of expertise and the inconsistencies regarding her work as a teacher and in the dental field, the petitioner’s statement is inadequate to established that she seeks to enter the United States to continue working in her claimed area of expertise as a caricaturist. Therefore, beyond the director’s decision, the AAO finds that the petitioner has not submitted qualifying evidence as required by section 203(b)(1)(A)(ii) and 8 C.F.R. § 204.5(h)(5).

III. CONCLUSION

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 petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence indicates that the petitioner shows talent as a caricaturist, but is not persuasive that the petitioner’s achievements set her significantly above almost all others in 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.