



U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **APR 14 2015** Office: VERMONT SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

The petitioner seeks to classify the beneficiary as an O-1B nonimmigrant pursuant to section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(O)(i), as an alien of extraordinary ability in the arts.

After issuing a request for evidence and then considering the evidence of record, the director denied the petition, finding that the petitioner did not establish that the beneficiary qualifies as an alien of extraordinary ability in the arts. The director determined that the petitioner did not establish that the beneficiary meets the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iv)(A), and that the submitted evidence did not satisfy any of the six evidentiary criteria set forth at 8 C.F.R. § 214.2(o)(3)(iv)(B), of which the petitioner must meet three to establish the beneficiary's eligibility.

On appeal, the petitioner submits a brief. For the reasons discussed below, upon review of the entire record, we will uphold the director's decision and dismiss the appeal.

I. The Law

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. The regulation at 8 C.F.R. § 214.2(o)(3)(ii) provides, in pertinent part: "*Extraordinary ability in the field of arts* means distinction. Distinction means a high level of achievement in the arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts."

The regulation at 8 C.F.R. § 214.2(o)(3)(iv) sets forth a multi-part analysis. First, a petitioner can demonstrate the beneficiary's recognition in the field through evidence that the alien has been nominated for, or the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director's Guild Award. 8 C.F.R. § 214.2(o)(3)(iv)(A). If the petitioner does not submit this evidence, then a petitioner must submit sufficient qualifying evidence that satisfies at least three of the six categories of evidence listed at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1)-(6). If the petitioner demonstrates that certain criteria in paragraph (o)(3)(iv)(B) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility. 8 C.F.R. § 214.2(o)(3)(iv)(C).

The submission of evidence relating to at least three criteria does not, in and of itself, establish eligibility for O-1 classification. 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994). In addition, we have held that "truth is to be determined not by the quantity of evidence alone but by its quality. Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both

individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

The regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

Arts includes any field of creative activity or endeavor such as, but not limited to, fine arts, visual arts, culinary arts, and performing arts..

Additionally, the regulation at 8 C.F.R. § 214.2(o)(2)(iii) provides:

The evidence submitted with an O petition shall conform to the following:

- (A) Affidavits, contracts, awards, and similar documentation must reflect the nature of the alien’s achievement and be executed by an officer or responsible person employed by the institution, firm, establishment, or organization where the work was performed.
- (B) Affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability . . . shall specifically describe the alien’s recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information.

II. Analysis

The petitioner generally relies on the same pieces of evidence to satisfy all of the criteria at 8 C.F.R. § 214.2(o)(3)(iv)(A) and (B), with the exception of the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(6). For example, the petitioner asserts that the beneficiary’s third place finish at the [REDACTED] Competition is evidence that the beneficiary satisfies the criteria at 8 C.F.R. § 214.2(o)(3)(iv)(A) and 8 C.F.R. § 214.2(o)(3)(iv)(B)(1)-(5) and that the beneficiary’s performances in events such as [REDACTED] in 2013 are evidence that the beneficiary satisfies the criteria at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1)-(5). Evidence relating to, or even meeting, one criterion is not presumptive evidence that the beneficiary also meets additional criteria. To hold otherwise would render meaningless the regulatory requirement that a beneficiary meet at least three separate criteria. As not every piece of evidence is appropriate to each criterion, we will review the submitted evidence under the appropriate criteria as indicated by the plain language of the regulation. Finally, while the petitioner references “voluminous evidence” on appeal, throughout the proceeding the petitioner has submitted multiple copies of the same exhibit, including within the same filing.

A. Evidentiary Criteria

Evidence that the alien has been nominated for, or the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director’s Guild Award.

The petitioner asserts that the beneficiary is the recipient of two significant awards in her field. The beneficiary placed third at the [REDACTED] Competition and received a [REDACTED] award from the [REDACTED]. The director found that the petitioner had not established “that the

beneficiary has received an Academy Award, an Emmy, a Grammy, a Director's Guild Award or comparable award in the field of endeavor" and the record supports the director's finding.

Although the petitioner asserts that "one must be at the top of their field just to be able to compete in the" ██████████ Competition, based upon the information submitted from the competition website, the only entrance restriction is that the competition is limited to women who are at least 18 years old. The petitioner submitted a "Certificate of Recognition" which states it was awarded "[i]n recognition of your participation in the ██████████ Competition." The petitioner also submitted photographs from the competition, press clippings which confirm the beneficiary's ranking among the final three competitors, information about the judges and information about the winners of the 2012, 2013 and 2014 competitions. A letter from ██████████ President and Chief Executive Officer of the ██████████ Organization, states that the ██████████ Competition is "designed to promote both Middle Eastern dance and culture, and to raise the profile of belly dancing in the wider community." He further states that the competition aims "to give elite dancers who are at the top of their field a chance to gain national recognition for their skills and hard work," but does not provide evidence to support this assertion. According to the information the petitioner submitted about ██████████ its "mission is to document, preserve, celebrate, and educate the public on the history, life, culture and contributions of Arab Americans." The ██████████ Competition website states that "[t]he #1 goal of our competition is to establish national standards for judging professional belly dancing techniques. The Competition is designed to promote both Middle Eastern dance and culture, and to raise the profile of belly dancing in the wider community." The petitioner did not, however, provide sufficient evidence to establish that the ██████████ Competition has succeeded with its goal or that ranking among the final three competitors in the competition is comparable to the types of awards listed in the regulation. While the petitioner submitted press clippings that mention the event, as will be discussed further below, the petitioner did not document the significance of the publications that carried these stories.

Regarding the second award, the petitioner submitted a certificate with a certified translation which states that the beneficiary received the "██████████" for "██████████" for the Year ██████████' from the Stars of Venezuela Foundation. According to the certificate, the website for the Foundation is ██████████¹ The petitioner also submitted a "publicity/press release" from the awarding entity which is from 2003. It is unclear why the petitioner submitted information from ten years ago. Moreover, the website materials with photographs from the awards ceremony show winners receiving an engraved plaque. In contrast, the petitioner submitted a certificate with a stamp. The petitioner has not demonstrated that her award is one and the same as the awards pictured on the website. Regardless, the record does not contain any evidence that this award is comparable to the types of awards listed in the regulation.

Without independent, objective evidence which establishes that these awards are significant national or international awards for belly dancing, the petitioner has not demonstrated that the beneficiary meets this criterion.

¹ Our attempt to locate the website online indicated that "the server cannot be found."

Evidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications contracts, or endorsements.

The director determined that the submitted evidence did not meet the plain language of the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1). It is the petitioner's burden to establish that the evidence submitted on behalf of the beneficiary meets every element of this criterion. Not only must the petitioner demonstrate that the beneficiary has performed, and will perform, as a lead or starring participant in productions or events, the petitioner must also demonstrate that the productions or events have a distinguished reputation. As evidence, the petitioner may submit critical reviews, advertisements, publicity releases, publications contracts, or endorsements.

The director found that the beneficiary's receipt of third place at the [REDACTED] Competition did not establish that the beneficiary was the lead or starring participant in the production or event. In response to the director's request for evidence and on appeal, the petitioner no longer asserts that the beneficiary satisfies the criterion based upon receipt of third place, but rather satisfies it based upon her roles in such productions as [REDACTED]. The petitioner submitted a certificate given to the beneficiary "in recognition for your participation and completion of four days of Workshops of Oriental [D]ance Technique & Choreography and Folklore at [REDACTED]." According to a letter from [REDACTED], the founder of [REDACTED], the beneficiary is "tenacious" and her "presence on the stage is captivating." According to the submitted press clippings which reference [REDACTED] the beneficiary "participated in the opening of the great gala event...which holds four days of classes in different modalities." Although the petitioner asserts that the beneficiary "was a lead performer in the opening production," the submitted advertisement on the petitioner's Facebook page includes the names and photographs of seven individuals, none of which are the beneficiary. The petitioner, therefore, has not established that the beneficiary held a lead or starring role in the event or that the event has a distinguished reputation.

The petitioner also asserts that the beneficiary was "a lead dancer in [REDACTED] live performances in Venezuela." According to the letter from Mr. [REDACTED] he has "had the pleasure to work with her in s[o]me of my presentations." He does not indicate that the beneficiary was a lead or starring participant in any of the events. Similarly, letters from [REDACTED] and [REDACTED] indicate that the beneficiary is a talented dancer, but do not indicate that the beneficiary has ever performed in a lead or starring role in a production or event with a distinguished reputation.

Although the petitioner asserts that the beneficiary "will play a lead and starring role in the following events with the [REDACTED] performing troupe: [REDACTED] and [REDACTED]" the petitioner did not submit evidence to establish that these productions have a distinguished reputation. In addition, the petitioner submitted a copy of the flyer for [REDACTED] which indicates that it is a "student showcase" and lists eight individuals as providing choreography, but does not list the performers.

As the petitioner has not established that the beneficiary has performed, and will perform, as a lead or starring participant in productions or events which have a distinguished reputation, the petitioner has not established the beneficiary's eligibility under the plain language of 8 C.F.R. § 214.2(o)(3)(iv)(B)(1).

Evidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications.

The director found that the beneficiary's receipt of two awards, while "noteworthy," were not sufficient to establish her national or international recognition.

The petitioner asserts that the beneficiary meets this criterion based upon a variety of evidence, including her two awards, her union membership, two certificates, various performances and assorted testimonial letters. The plain language of the regulation requires that the petitioner submit evidence in the form of critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines or other publications to establish the beneficiary's national or international recognition for achievements. Therefore, evidence such as testimonial letters will not be considered under this criterion, but will be considered under the criterion at 8 C.F.R § 214.2(o)(3)(B)(iv)(5).

The director notified the petitioner in the request for evidence that critical reviews or other published materials in major newspapers, trade journals, magazines or other publications should include circulation figures and that "[c]irculation information should be specific to the media format in which it was published." Although the petitioner relies on the same press clippings on appeal, the petitioner did not submit any information about the publications, including circulation information. Only one article contains an author's name and a number of the articles repeat the same information verbatim, consistent with press releases or promotional material. Without additional information, the petitioner has not established the significance of the press clippings.

Regarding the certificates, one is "[i]n recognition for your participation and completion of four days of Workshops of Oriental [D]ance Technique & Choreography and Folklore at [REDACTED]" and the other is from the petitioner. The petitioner did not submit any published materials in major newspapers, trade journals, magazines, or other publications to establish the significance of these certificates beyond the organizations who issued them. Similarly, the petitioner did not provide any published material to establish the significance of the beneficiary's union membership.

In light of the above, the petitioner has not established that the beneficiary meets this criterion by submitting critical reviews or other published material in major newspapers, trade journals, magazines or other publications.

Evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation as evidenced by articles in newspapers, trade journals, publications, or testimonials.

The director determined that the submitted evidence failed to meet the plain language of the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(3). It is the petitioner's burden to establish that the evidence submitted on behalf of the beneficiary meets every element of this criterion. Not only must the petitioner demonstrate that the beneficiary has performed, and will perform, in a lead, starring, or critical role for organizations and establishments, the petitioner must also demonstrate that the organizations and establishments have a distinguished reputation. In contrast to the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(B)(1), it is the beneficiary's lead, starring or critical role for organizations

and establishments, not productions or events, which the petitioner must demonstrate. As evidence, the petitioner must submit articles in newspapers, trade journals, publications, or testimonials.

The petitioner asserts that the beneficiary satisfies this criterion based generally upon the same evidence submitted to satisfy the first criteria. As previously stated, evidence relating to, or even meeting, the first criterion is not presumptive evidence that the beneficiary also meets this criterion. Therefore, the beneficiary's roles in productions or events such as the [REDACTED] Competition and [REDACTED] (and any accompanying press clippings) would only be relevant if they were probative of the beneficiary's role for an organization or establishment. The record does not establish that competing in a competition, including finishing in the top three, is a lead, starring or critical role for the organizers of that competition. Similarly, the record does not establish that completing workshops and performances with [REDACTED] is a lead, starring or critical role for that organization, which does not feature the beneficiary in their promotional material. Moreover, as we discussed above, the petitioner has not established the significance of the publications that covered these events.

According to the letter from [REDACTED] President of [REDACTED], the beneficiary "currently serves as the main Master Certified Instructor of the [REDACTED] Fitness Program in our studio, and she is also the main artistic director for our performance events." The beneficiary's resume states that she has been a Master Certified Instructor with the petitioner since May 2013.² The petitioner also submitted press clippings which indicate the beneficiary's affiliation with the petitioner, but do not state that she performs a lead, starring or critical role for the petitioner. In addition, the petitioner has not established that it is an organization with a distinguished reputation.

Similarly, the remaining testimonial letters, while complimentary of the beneficiary, do not claim that she performed in a lead, starring or critical role for organizations or establishments with a distinguished reputation.

Regarding the remaining evidence which includes photographs, certificates and the beneficiary's proposed itinerary, the petitioner has not explained how the evidence amounts to "articles in newspapers, trade journals or publications," as required by the regulation.

As the petitioner has not established that the beneficiary has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation, the petitioner has not established the beneficiary's eligibility under the plain language of 8 C.F.R. § 214.2(o)(3)(iv)(B)(3).

² Although the petitioner submitted multiple printouts from its website at [REDACTED] it did not include any printouts which list the beneficiary. A review of the petitioner's website (accessed on March 25, 2015) did not find the beneficiary's name listed anywhere on the site. 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).

Evidence that the alien has a record of major commercial or critically acclaimed successes as evidenced by such indicators as title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications.

The plain language of the regulation requires the petitioner to submit evidence such as title, rating, standing in the field, box office receipts, motion picture or television ratings, and other occupational achievements reported in trade journals, major newspapers, or other publications to establish the beneficiary's record of major commercial or critically acclaimed successes.

The director notified the petitioner in the request for evidence that evidence of occupational achievements reported in trade journals, major newspapers, or other publications should include circulation figures. Although the petitioner resubmitted the same press clippings on appeal regarding her third place finish in the [REDACTED] Competition and her performance in [REDACTED], the petitioner did not submit any information about the publications, including circulation information. Regarding the press clippings, as previously stated, only one includes the name of the author and many are variations of the same article. Without additional information, the petitioner cannot establish their significance.

The petitioner also asserts that the beneficiary's local union membership, award from the [REDACTED], testimonial letters and certificate of achievement from the petitioner are also evidence of her major commercial and critically acclaimed success, but has not provided any evidence that trade journals, major newspapers or other publications have reported these "occupational achievements," as required by the plain language of the regulation.

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

Evidence that the alien has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which the alien is engaged. Such testimonials must be in a form which clearly indicates the author's authority, expertise, and knowledge of the alien's achievements.

The director determined that the testimonials from former teachers did not discuss "the beneficiary's achievements in the field." The petitioner again asserts that the beneficiary meets this criterion based upon a variety of evidence, including her two awards, union membership, certificates, press clippings and testimonial letters.

Regarding the beneficiary's membership in the [REDACTED] the petitioner did not provide any information regarding the requirements for membership to establish that her membership demonstrates that she has received significant recognition for her achievements, rather than simply being a dues paying member.

For the reasons previously discussed, the petitioner has not submitted independent, objective evidence to establish that the awards or the certificates constitute significant recognition for achievements from organizations, critics, government agencies, or other recognized experts consistent with the plain language of the regulations.

Regarding the testimonial letters, the regulation at 8 C.F.R. § 214.2(o)(2)(iii)(B) provides that affidavits written by present or former employers or recognized experts certifying to the alien's recognition and extraordinary ability shall specifically describe the alien's recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information.

The letters from [REDACTED] a professional dancer, [REDACTED] founder of [REDACTED] Production, [REDACTED] Chief Executive Officer of [REDACTED], respectively describe the beneficiary's "elegant stage presence [and] clean technique," her "captivating" stage presence and state that she is "a preeminent belly dancer," but do not describe in factual terms the beneficiary's significant recognition for her achievements consistent with the plain language requirements of the regulation.

[REDACTED] who also works for the petitioner, states that the beneficiary has "a unique combination of grace, elegance, strong stage presence and technique that are very rare to find in our form of dance." Mr. [REDACTED] a singer who has worked with the beneficiary in the past, states that "[s]he's very gifted in her talents" and asserts that "she [is] the number one dancer of Arabic music in Venezuela," but does not provide any documentation to support his assertion or to establish his expertise in belly dancing.

The remaining letters from [REDACTED] and [REDACTED] who both taught the beneficiary, and [REDACTED] who has performed with the beneficiary also attest to the beneficiary's skill. Recognition as having the necessary talent to work in the field, even a competitive field, is not the type of achievement contemplated by the regulation, which states that the beneficiary must have received "significant recognition" from "organizations, critics, government agencies, or other recognized experts in the field" for her achievements. While all the letters praise the beneficiary's talents, their testimony fails to describe with any specificity the beneficiary's recognition and achievements in factual terms. USCIS need not accept primarily conclusory assertions. *1756, Inc. v. United States Att'y Gen.*, 745 F. Supp. 9 (D.C. Dist. 1990).

As the petitioner has not established that the beneficiary has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field, the petitioner has not established the beneficiary's eligibility under the plain language of 8 C.F.R. § 214.2(o)(3)(iv)(B)(5).

Evidence that the alien has either commanded a high salary or will command a high salary or other substantial remuneration for services in relation to others in the field, as evidenced by contracts or other reliable evidence.

The director determined that the petitioner did not submit sufficient evidence that the beneficiary meets this criterion. The director's request for evidence provided multiple examples of evidence which the petitioner might submit to support the petitioner's claim that the beneficiary meets this criterion. The request for evidence specifically stated that "U.S. Department of Labor (DOL) prevailing wage rate information alone does not generally establish the salary or other remuneration is 'significantly' higher than others in the field" and instructed the petitioner that it "should submit

additional evidence showing that the wage rate is high relative to others working in the field" if the petitioner "submit[s] DOL prevailing wage rate information."

The petitioner asserts that the beneficiary meets this criterion based, in part, on the petitioner's offer letter. The offer letter states that the beneficiary will receive \$35,000 per year. The letter indicates that the beneficiary will be a "Dance Instructor and Performer of Middle Eastern Dances," and "will also be responsible for leading and performing in cultural events and competitions," and finally "creating themed events with your dance expertise at women's shelters in South Florida." The petitioner submitted wage information from DOL and [REDACTED] that applies to dancers only. As stated in the petitioner's support letter, the beneficiary "serves as the main Master Certified Instructor...and she is also the main artistic director for our performance events." The beneficiary's role with the petitioner extends beyond the normal duties of a dancer. Wage information that is limited to dancers is, therefore, not sufficient to establish that the beneficiary will command a high salary in relation to others in the field, as required by the plain language of the regulation.

As the petitioner has not established that the beneficiary either commanded a high salary or will command a high salary or other substantial remuneration for services in relation to others in the field, the petitioner has not established the beneficiary's eligibility under the plain language of 8 C.F.R. § 214.2(o)(3)(iv)(B)(6).

B. Comparable Evidence

The regulation at 8 C.F.R. § 214.2(o)(3)(C) permits the petitioner to submit comparable evidence if the criteria "do not readily apply to the beneficiary's occupation." The director's request for evidence explained that to rely on comparable evidence, the petitioner "should indicate why the criteria do not apply to the occupation" and, further, should "explain why the evidence you submitted is 'comparable' to the applicable regulatory requirement." On appeal, the petitioner asserts that the beneficiary's field differs from those of singers and actors and that it is "unique and developing." The petitioner, however, also asserts that the beneficiary meets the criterion at 8 C.F.R. § 214.2(o)(3)(iv)(A) and all of the criteria 8 C.F.R. § 214.2(o)(3)(iv)(B)(1)-(6). The regulatory language precludes the consideration of comparable evidence in this case, as there is no indication that eligibility for this classification in the beneficiary's field cannot be established by the criteria above. Where the beneficiary is simply unable to satisfy the plain language requirements of at least three categories of evidence, the regulation at 8 C.F.R. § 214.2(o)(3)(C) does not allow for the submission of comparable evidence. On appeal, the petitioner does not specifically explain why the regulatory criteria are not readily applicable to the beneficiary's occupation and how the submitted evidence is "comparable" to any specific objective evidence required at 8 C.F.R. § 214.2(o)(3)(iv)(A) or 8 C.F.R. § 214.2(o)(3)(iv)(B)(1)-(6).

C. Summary

The submitted evidence demonstrates that the beneficiary is a talented dancer, but fails to distinguish her from other professional dancers. The evidence does not establish that the beneficiary has a high level of achievement in the field of dance, as evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that she is renowned, leading, or well-known in her field, as required by section 101(a)(46) of the Act and 8 C.F.R. § 214.2(o)(3)(ii).



III. Conclusion

The petitioner failed to establish the beneficiary's eligibility pursuant to the regulatory criteria under 8 C.F.R. § 214.2(o)(3)(iv)(A) or (B). Therefore, the petitioner has not established the beneficiary's eligibility pursuant to section 101(a)(15)(O)(i) of the Act and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.