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U.S. Department of Homeland Security
Citizenship and Immigration Services

Administrative Appeals Office
CIS, AAO, 20 Mass, 3/F
425 I Street N.W.
Washington, D.C. 20536

[redacted]

OCT 0 2 2003

FILE: EAC 02 219 50991 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision 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 the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner in this matter is a political campaign committee, seeking O-1 classification of the beneficiary under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), as an alien with extraordinary ability in research, in order to employ him in the United States for a period of five years as director of research and policy analysis at an annual salary of $40,000.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary met the regulatory standard necessary for classification as an alien with extraordinary ability in his field of endeavor.

On appeal, the petitioner submits a statement asserting that the beneficiary qualifies for the classification sought.

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 issue raised in this proceeding is whether the petitioner has shown that the beneficiary qualifies for classification as an alien with extraordinary ability in research and policy analysis as defined by the regulations.

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

> *Extraordinary ability in the field of science, education, business, or athletics* means a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.

8 C.F.R. §214.2(o)(3)(iii) states, in pertinent part, that:

Evidentiary criteria for an O-1 alien of extraordinary ability in the fields of science, education, business, or athletics. An alien of extraordinary ability in the fields of science, education, business, or athletics must demonstrate sustained national or international acclaim and recognition for achievements in the field of expertise by providing evidence of:

(A) Receipt of a major, internationally recognized award, such as the Nobel Prize; or

(B) At least three of the following forms of documentation:

(1) Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;

(2) 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;

(3) Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;

(4) Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;

(5) Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field;

(6) Evidence of the alien's authorship of

scholarly articles in the field, in professional journals, or other major media;

(7) Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;

(8) Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

(C) If the criteria in paragraph (o)(3)(iii) 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.

The beneficiary is a 25-year old native and citizen of Canada. He completed a bachelor's degree in history and political science at McGill University in Montreal in May 2000. The beneficiary held the position of research assistant at *Lazio 2000, Incorporated* from June 2000 until November 2000. Since January 2001, the beneficiary has been employed by the petitioner as a research assistant.

After reviewing the evidence submitted in support of the petition, the director found that, although the beneficiary had impressed his professors and colleagues with his ability, he had not demonstrated the type of sustained national or international recognition of his accomplishments necessary for O-1 classification. The director concluded that the record was insufficient to demonstrate that the beneficiary was recognized as one of the small percentage recognized as being at the very top of his field pursuant to 8 C.F.R. §214.2(o)(3)(ii).

On appeal, the petitioner asserts that CIS ignored evidence from independent sources that establish that the beneficiary is at the top of his profession.

In reaching a determination for O-1 classification, CIS must take into account the evidence of record as a whole and the standards of the field of endeavor in which the beneficiary is engaged. The evidentiary criteria listed at

8 C.F.R. § 214.2(o)(3)(iii)(B) list the minimum documentary requirements and merely addressing them does not necessarily establish that the beneficiary has sustained national or international acclaim in his field of endeavor. The documentation submitted in support of each criterion must be indicative of the beneficiary's acclaim in the field.

After careful review of the record, it must be concluded that the petitioner has failed to overcome the grounds for denial. The extraordinary ability provisions of this visa classification are intended to be highly restrictive. In order to establish eligibility for extraordinary ability, the statute requires evidence of "sustained" national or international acclaim and evidence that the alien's achievements have been recognized in the field of endeavor through "extensive documentation." The petitioner has not established that the beneficiary's abilities have been so recognized.

There is no evidence that the beneficiary has received a major, internationally recognized award equivalent to that listed at 8 C.F.R. § 214.2(o)(3)(iii)(A). Neither is the record persuasive in demonstrating that the beneficiary has met at least three of the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

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

The petitioner submitted no evidence relating to criterion number one.

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.

No evidence was submitted to satisfy criterion two.

Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought

The petitioner provided CIS with a copy of a website, *PoliticsNY.com*, that heralds [redacted] opposition research team, as follows:

> Kudos to Governor [redacted] opposition research team for catching [redacted] running-mate, apparently practicing voter fraud by voting twice in two different elections. For years, the GOP has howled about the Democrats' ability to steal votes in New York City. Who knew it would be a Conservative Party member that would be the first to be ensnared in the GOP's vote-fraud web? [redacted] chief strategist and a legendary practitioner of hard-ball politics, blames the disclosure of [redacted] embarrassing mistake on [redacted] campaign "dirty tricks." But no one believes him. They are, however, impressed that [redacted] is able to complain about [redacted] without even cracking a smile.

This item does not satisfy criterion number three because it does not mention the beneficiary by name. It is not evidence that the beneficiary has sustained acclaim in his own right.

Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought.

The petitioner failed to submit any evidence in relation to criterion number four.

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

The petitioner submits that the beneficiary made an original scholarly contribution of major significance in his field by writing a report summarizing HUD economic development programs. The petitioner submitted a copy of the 20-page report, but failed to explain why this report may be considered a contribution of major significance.

While the beneficiary may have performed valuable research for his employer, the record does not show that his research is considered of "major significance" in the

field.

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

The petitioner provided CIS with a copy of an article written by Andrea Bernstein that was published in *The New York Observer*. The petitioner asserts the article is largely based on research performed by the beneficiary. The evidence does not show that the beneficiary authored the article; therefore, it does not satisfy this criterion.

Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.

The petitioner asserts that the beneficiary has been employed in a critical and essential capacity for the petitioner. The petitioner submitted a letter written by the director of research at the New York Republican State Committee stating that the beneficiary "is an essential part of the Friends of Pataki organization." The petitioner also submitted a letter written by a private political consultant that asserts that the beneficiary is "one of the best and brightest individuals in present day political research."

The beneficiary was previously employed as a research assistant and is currently employed as a research assistant by the petitioner. If the instant petition is approved, he will be promoted to director of research and policy analysis. The petitioner has not established that the beneficiary has been employed in a critical and essential capacity for any organization. The position of research assistant is not critical or essential to the organization.

Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services

The petitioner stated that:

> You have also requested us to provide you with evidence that the beneficiary now commands a high salary . . . and, to this we wish to emphasize that salaries in political organizations such as ours are determined by budgetary constraints, and, in

> consequence of same, we can unequivocally state that from our knowledge and experience in professional political industry, individuals employed in similar functions as [the beneficiary] in our own political organization both on a state and national level do not command as high a salary as [the beneficiary] presently receives.

The petitioner failed to submit evidence of relevant wage surveys. In the absence of relevant salary data, the petitioner failed to establish that the beneficiary's wages are high in comparison to the wages of other political analysts/researchers with similar qualifications. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

Sustained national or international acclaim in the field of endeavor is the standard that must be satisfied. The record does not establish that the alien is considered to be one of the small percentage of individuals who have risen to the very top of the field of business or that he has sustained national or international acclaim. Therefore, the appeal must be dismissed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.