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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[Redacted]

File: [Redacted] Office: Nebraska Service Center

Date: 4 - APR 2002

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:

[Redacted]

Public Copy

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 the Service 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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The petitioner filed an untimely appeal which the director treated as a motion to reopen. The director affirmed the denial of the petition on motion, and the matter is now before the Associate Commissioner for Examinations 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 education. 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.

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.

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 Service 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 the beneficiary has sustained national or international acclaim at the very top level.

This petition, filed on August 6, 1999, seeks to classify the petitioner as an alien with extraordinary ability as a medical researcher. At the time he filed the petition, the petitioner was a research associate under Associate Professor Charis Eng at the Ohio State University Comprehensive Cancer Center. The petitioner started his postdoctoral fellowship under Dr. Eng in 1998 at the Dana-Farber Cancer Institute, Harvard Medical School, and continued working for Dr. Eng when Eng

transferred to Ohio State University. The petitioner's research involves applying techniques of molecular biology to determine the genetic causes of certain types of human cancer.

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, international 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 sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence which, he claims, meets the following criteria.

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

In memoranda accompanying the initial filing and the petitioner's response to the director's request for additional evidence, counsel asserts that the petitioner has won the following awards:

1. Honor of Excellent College Student (September 30, 1984)
2. Young Scientist Award and Research Funding (September 1992 to May 1996)
3. Research Fellowship in Neuro-oncology (June 1996 to October 1998)
4. Award recipient of funding from the American Cancer Society and U.S. Army (1999)

Other than counsel's assertion and a supporting affidavit from the petitioner, the record contains no first-hand documentation confirming that the petitioner, as an individual, received these awards. The petitioner offers no direct evidence or proof of verification from the awarding entities. The assertions of counsel do not constitute evidence. Matter of Laureano, 19 I&N Dec. 1, 3 (BIA 1983); Matter of Obaigbena, 19 I&N Dec. 533, 534 (BIA 1988); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 (BIA 1980).

Even if the petitioner were to provide first-hand evidence, the awards would still fail to satisfy this criterion. The Honor of Excellent College Student award relates to the petitioner's academic accomplishments while pursuing his medical degree at Second Military Medical University in Shanghai. University study is not a field of endeavor, but, rather, training for future employment in a field of endeavor. Awards based on academic achievement do not constitute nationally recognized "awards for excellence in the field of endeavor." A student award may place the petitioner among the top students at his particular university, but it offers no meaningful comparison between the petitioner and the most experienced and practiced in the field.

The Young Scientist Award, Research Fellowship in Neuro-oncology, and funding from the American Cancer Society and U.S. Army limit comparison of the petitioner to other postdoctoral researchers applying for the same grants, thus excluding the most eminent, established and experienced researchers in the field from consideration. A research fellowship is not a national award for excellence in one's field, but, rather financial support for ongoing research. The fellowship funding was awarded not by outside nomination, demonstrating the field's regard for the petitioner's ability, but upon his application to the programs. Fellowship grants generally support

future research rather than recognized prior achievements and it cannot be argued that the receipt of various fellowships automatically places the petitioner at the pinnacle of the field. Further, the reputations of the awarding bodies do not establish that fellowships from those institutions are a significant national honor. The petitioner has failed to demonstrate that he earned national or international acclaim as a result of receiving the awards and fellowships listed above.

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.

Counsel states that the petitioner is a member of the American Association for Cancer Research ("AACR"). The petitioner submits his AACR membership certificate dated January 1, 2000 reflecting "associate" membership. The petitioner has not submitted evidence to demonstrate that he was a member of this organization at the time of filing. A petitioner must establish eligibility at the time of filing. See Matter of Katigbak, 14 I&N Dec. 45, 49 (Comm. 1971).

Even if we were to accept the petitioner's membership in AACR, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to "associate" membership. Membership requirements based on employment or activity in a given field, a fixed minimum of education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion because participation, employment, education, experience, test scores and recommendations do not constitute outstanding achievements. In addition, memberships in an association that judges membership applications at the local chapter level do not qualify. It is clear from the regulatory language that members must be selected at the national or international level, rather than the local level. Finally, the overall prestige of a given association cannot satisfy the criterion, because the key issue is membership requirements rather than the association's overall reputation.

Information provided by the petitioner reflects that the AACR is "a scientific society of over 15,000 laboratory and clinical cancer researchers." The petitioner also submits evidence of AACR's specific membership requirements:

Active membership is open to investigators who live in the Americas. Individuals who have conducted two years of research resulting in peer-reviewed publications relevant to cancer or in an area of biomedical science related to cancer, or who have made a substantial contribution to cancer research in an administrative or educational capacity, are eligible.

Associate membership is open to graduate students, medical students, postdoctoral fellows, and physicians in training who are following a course of study or who are working in a research program relevant to cancer. Scientists in training who already have a substantial record of publications may wish to apply for active or corresponding membership.

The petitioner's "associate" membership clearly carries less prestige than "active" membership.

There is no evidence demonstrating "associate" membership in AACR requires outstanding achievement in cancer research or that the petitioner was judged by national or international experts in consideration of his membership. The petitioner's "associate" membership in AACR fails to place him amongst the top scientists in the field of cancer research. A comparison of the above membership requirements reflects that this organization regards its "associate" members as being at an early stage in their career and lacking in substantial research contributions.

Published materials 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.

On appeal, the petitioner submits a single article appearing in the November 15, 2000 issue of *Cancer Research*. Counsel argues that the petitioner now satisfies this criterion. We note that the article was published subsequent to the filing of the petition. See Matter of Katigbak, *supra*.

Even if we were to consider the article, the plain wording of the regulation requires the submission of "published materials about the alien," and a single article that barely even mentions the petitioner cannot satisfy this criterion. The main subject of the article is devoted to Ohio State University's Comprehensive Cancer Center and its leading researchers such as Dr. [REDACTED], Dr. [REDACTED], Dr. [REDACTED], Dr. [REDACTED], Dr. [REDACTED], Dr. [REDACTED], Michael Ostrowski, Dr. Christopher Plass, Dr. Lawrence Mathes, Dr. Robert Brueggemeier, Dr. [REDACTED], Dr. [REDACTED], Dr. [REDACTED], and the petitioner's supervisor, Dr. [REDACTED]. A simple comparison of the petitioner's reputation to the reputations of the individuals listed above reveals that these individuals have earned considerably more prestige and authority than the petitioner in the cancer research field.

The petitioner's mention in the article appears as follows:

Dr. [REDACTED] and colleagues also made an important contribution in clarifying the pathogenesis of endometrial cancer by identifying the role of PTEN expression as a very early marker of endometrial precancer- findings that have already translated into routine laboratory testing using PTEN immunostaining as a molecular diagnostic adjunct for endometrial precancers (X.P. Zhou, *Hum. Mol. Genet.*, 5: 75-768, 2000).

Because the statute demands national or international acclaim, the petitioner cannot satisfy this criterion unless he has been the subject of coverage in major national or international publications. The above single citation of the petitioner's work fails to satisfy this criterion. Citations of the petitioner's work will be further addressed under a separate 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.

Counsel contends that the petitioner satisfies this criterion. However, a review of the record reveals

minimal evidence to support counsel's claim. Counsel cites a letter from Dr. [REDACTED] the petitioner's research supervisor at the Ohio State University Comprehensive Cancer Center, and provides a copy of a single published work allegedly reviewed by the petitioner (the petitioner's name does not appear on the document). Dr. Eng states: "I am the North American Editor of an international journal, *Journal of Medical Genetics*, and I can vouch that Dr. Zhou has been a peer reviewer for this journal, and will continue to be on our list of ad hoc external peer reviewers." The construction of the regulations demonstrates the Service's preference for verifiable, documentary evidence, rather than the subjective assertions of the petitioner's current research supervisor, an individual with an expressed interest in the petitioner's continued employment. It should be noted that we are not questioning the credibility of Dr. Eng's statement, but looking for specific first-hand documentary evidence of the petitioner's participation as a judge. The petitioner has offered no direct evidence, such as letters originating from the journals or panels, to confirm that he judged the work of other cancer research scientists. The statements submitted from the petitioner, counsel, and the petitioner's supervisor carry insufficient evidentiary weight to demonstrate eligibility under this criterion.

In an occupation where "judging" the work of others is an inherent duty of the occupation, such as an instructor, teacher (including graduate student teaching assistants), professor or editor, simply performing one's job-related duties demonstrates competency, and is not evidence of national or international acclaim.¹ Instead, a petitioner must demonstrate that the alien's sustained national or international acclaim resulted in his selection to serve as a judge of the work of others in his field. Similarly, the judging must be on a national or international level and involve other accomplished professionals in the research field. For example, judging tenured research professors carries greater weight than judging doctoral candidates.

Even if we were to accept the statements alone as proof of the petitioner's participation, the petitioner has failed to provide the requirements for designation as a "peer reviewer" for the *Journal of Medical Genetics*. The record contains no evidence that the petitioner's notoriety as a researcher resulted in his being selected as a reviewer. It would be more reasonable to conclude that the petitioner was selected because his research supervisor happens to serve as an editor of the journal. The petitioner has not submitted evidence under this criterion to demonstrate status as a top scientist in cancer research field.

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

On appeal, the petitioner provides a letter dated October 18, 2000 from Dr. [REDACTED], Research Leader, Human Cancer Genetics Program, Ohio State University Comprehensive Cancer Center. In her second letter, Dr. [REDACTED] states:

¹ This is true with all duties inherent to an occupation. For example, publication is inherent to researchers. Thus, the mere publication of scholarly articles cannot demonstrate national acclaim. The petitioner must demonstrate that the articles have garnered national attention, for example, by being widely cited.

Because of work by [the petitioner] and the rest of my trainees (and I have only three other postdoctoral trainees and two students at present; my average lab size ranges from 8-12 personnel), I now have over 140 peer reviewed original papers published or in press in international journals and have been awarded or will be awarded several national grants from the National Institutes of Health, Department of Defense (US Army Breast Cancer Research Program), the American Cancer Society (National), the Susan G. Komen Breast Cancer Research Foundation (National) and the Mary Kay Ash Charitable Foundation. I would like to inform you of a new piece of information which was not available for his original petition. I chose [the petitioner] amongst my trainees to attend and present at the 50th Annual American Society of Human Genetics Annual Meeting two weeks ago. He is co-author on an abstract (I am first author because each person is only allowed to be first author on a single abstract) which was chosen for platform presentation at this international meeting attended by almost 4,000 human geneticists. Only 10% of abstracts chosen for any type of presentation are selected for platform presentation. [The petitioner] was first author on an abstract selected for poster presentation. This selection committee is tough and I doubt they would select trivial work for presentation. Please be assured that the work in my laboratory over the last five years, including that of [the petitioner], has been translated to routine clinical care. My work is the basis for routine clinical gene testing for several familial cancer syndromes. One of [the petitioner's] papers, the one published in *Human Molecular Genetics*, has created quite a stir around the world already. In the past, patients, including American patients, with Proteus syndrome or Proteus-like syndrome, were unaware how they developed these unfortunate conditions. Because of [the petitioner's] work, we now know that one etiology is alteration of the *PTEN* gene. Routine clinical testing of *PTEN* has been instituted in the clinical (CLIA certified) lab of our institution and one other commercial lab in the US, and this is being offered routinely now. Therefore, I simply cannot agree with the INS assessment that [the petitioner's] work- our work- does not benefit the United States in the future. It has already begun to benefit the citizens of this country and even transcending a single nation, of the world.

I wondered if you were aware that [the petitioner] began his postdoctoral fellowship with me at the end of 1998, during my move from Boston to Columbus. Lab moves cause upheaval and downtime. Therefore, [the petitioner] really couldn't do much active work until March 1999. Despite this brief time, he already has three published first author papers. I wondered, too, if you were aware that a new postdoctoral fellow usually would submit his first author paper from the new lab after an average of one year and a half. Research takes time. Further, I wondered if you were aware that applications for most postdoctoral fellowships require some form of preliminary work by the fellow in the current mentor's lab. Usually, one does not have such data until after a minimum of one and a half-year's work. [The petitioner] is gearing up to put in for an AACR Fellowship. Unfortunately, he is in a catch-22: because he is not a citizen or a permanent resident, he is not eligible for many national fellowships including those from the NIH (our largest source of funds).

Dr. Richard Hamelin, Research Director at the French Institute for Health and Medical Research, states:

As a Research Director, I had the opportunity to guide and observe the research of [the petitioner] from June 1996 to October 1998, a period of over two years of most productive and outstanding research in the field of cancer genetics. I am proud to say that [the petitioner's] abilities in these fields of research are inherent and exceptional. By the end of two years at INSERM U434, his work resulted in the publication of six highly significant articles in internationally recognized journals. Of these six, [the petitioner] was leading author in three. Three other publications are either submitted or in preparation.

The research of [the petitioner] has definitely advanced the understanding of adult malignant brain tumors at the molecular level. The results of his work indicated that the inactivation of PTEN, a tumor suppressor gene located on chromosome 10, was associated with the progression of brain tumors. Moreover, [the petitioner] also showed that a subset of malignant brain tumors, considered as hereditary, were due to germ-line mutations of certain genes (P53), but not of other candidate genes (PTEN and P16). These results could be used for the medical supervision and follow-up of individuals belonging to families harboring such genetic defects.

[The petitioner] has also played a pivotal role in the characterization of a certain type of human tumors. These particular tumors (known as MSI) are characterized by a molecular defect in DNA repair. It was important to recognize these tumors since they have a good prognosis as compared to non-MSI tumors and may respond differently to chemotherapy and radiotherapy. Until recently, many different studies with conflicting results were published due to the absence of good markers to individualize them. In a large analysis, [the petitioner] showed that two mononucleotide repeats called Bat-26 and Bat-25 were able to establish the MSI status of human tumors with an efficiency above 99.5%. In an international consensus meeting held in Bethesda in December 1998, Bat-26 and Bat-25 were retained in a series of five markers as international guidelines to characterize MSI human tumors.

Dr. Khe Hoang-Xuan, Department of Neurology at Pitie-Salpetriere Hospital in Paris, France, states:

During our work at INSERM and clinical neurology, I had the pleasure of co-authoring three articles with [the petitioner], all of which were published in international journals. [The petitioner] is a highly talented and effective researcher of the genetic causation of brain tumors. Our studies definitely revealed correlation at the molecular level of genotype with brain tumor behavior (phenotype).

Dr. Tao Chung, Instructor in Medicine at Harvard Medical School and Assistant in Medicine at Massachusetts General Hospital, states:

I was fortunate to study with [the petitioner] during 1981-1986. We attended the same medical school. It has been a long-time relationship that provides the opportunity for me to gain the insight into [the petitioner's] difficult but fruitful research.

[The petitioner] has been working on cancer research since 1988 when he began his graduate study. After he obtained his Ph.D. with exceptional excellence, he was recruited by Association pour les Recherches sur les Tumeur Cerebrales, Division Mazarin, Service de Neurologie, Hopital Pitie-Salpetriere, at Paris, France as a postdoctoral fellow. Within a short period of time, he discovered, for the first time, the allelic profiles of mononucleotid repeat microsatellites in healthy individuals and in colorectal tumors with and without replication errors. That opened a new path for diagnosing those tumors through molecular approach. Subsequently, [the petitioner] determined the replication error phenotype of human tumors without the need of matching normal DNA by analysis of mononucleotide repeat microsatellites. In addition, he was also involved in studies of tumor suppressor gene which are the new targets for cancer therapy.

Dr. Youjun Li, Scientist at the Sunnybrook Health Science Center in Toronto Canada, states:

I have known [the petitioner] since 1988, when we both studied at the Second Military Medical University in Shanghai, China. For many years after, I conducted medical research on brain tumors, a subject of the interest for [the petitioner] as well. Because of our shared professional interest and labors towards understanding the causes of, and therefore the cures for human cancers, including brain tumors, I am most familiar with the work of [the petitioner] in this same field.

[The petitioner], after holding a coveted teaching position in the Department of Neurosurgery of Chang-Zhen Hospital at the Second Military Medical University, has applied his life's work to study human cancers using the latest and most sophisticated techniques of molecular genetics. His research traces the molecular alterations involved in tumorigenesis of human cancers especially brain tumor.

In this pursuit, [the petitioner] is highly successful and is now an international acknowledged cancer researcher. This is substantially proven by his having published five articles in internationally circulated and peer reviewed journals, including the prestigious *International Journal of Cancer*; *Journal of Pathology*; *Journal of Neuro-Oncology*; *Oncogene*; *Genes, Chromosomes, & Cancer*. Another paper is awaiting publication.

Ever since I have known him and worked with him as research colleague, [the petitioner] has been maturing to an extraordinary cancer researcher of international standing. While cancer research remains as part of the last medical frontier, I see in [the petitioner] great achievements and yet more to come. Brain cancer is a particularly virulent form of cancer and is known to have a very low rate of cure. Approximately 10,000 people are diagnosed with glioblastomas multiform, the most malignant brain tumor, and every year in the United States. [The petitioner's] research is directed in understanding the cause of brain cancer,

targeting the susceptible genes and providing potential therapeutic approaches such as cancer gene therapy. His continued work will benefit public health in the future.

The classification sought by the petitioner requires him to establish that he has attained national or international acclaim for his contributions of major significance to the field. All of the individuals offering letters of support for the petitioner are his fellow colleagues or personal acquaintances. These letters from his research collaborators, research supervisors, and fellow alumnae fail to establish the petitioner's national or international notoriety as a medical researcher. If the petitioner's work is not widely praised outside of his personal acquaintances and research institutions, then it cannot be concluded that he enjoys sustained national or international acclaim as one who has reached the very top of his field.

Section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. Furthermore, the construction of the regulations demonstrates the Service's preference for verifiable, documentary evidence, rather than subjective opinions of witnesses selected by the petitioner. It should be noted that the Service is not questioning the credibility of the petitioner's witnesses, but looking for evidence that the petitioner's research has impacted the scientific community beyond his immediate acquaintances. Evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim.

Several of the individuals offering letters of support mention the petitioner's authorship of articles published in scientific journals. However, publication of one's findings is an inherent duty of post-doctoral researchers. Thus, the mere publication of scholarly articles cannot demonstrate national acclaim. While the petitioner's cancer research clearly has practical applications, it can be argued that any article, in order to be accepted in a scientific journal for publication, must offer new and useful information to the pool of knowledge. It does not follow that every scientist whose scholarly research is accepted for publication has made a major contribution to his field. The petitioner must demonstrate that the articles have garnered national or international attention from the scientific research community. We will further address the petitioner's published works under a separate criterion.

While the petitioner is credited with isolating specific molecular defects in DNA (PTEN gene) which are associated with the progression of certain cancers, the fact that the petitioner was among the first to make such a discovery carries little weight. Of far greater importance in this proceeding is the importance to the field of the petitioner's discoveries. The petitioner has not provided sufficient evidence that his research, to date, has consistently attracted significant attention from prominent medical researchers. The petitioner must show not only that his discoveries are important to his own research institutions, but throughout the cancer research field.

Several of the testimonial letters, such as the one from Dr. Hamelin, speculate on the future promise of petitioner's research. Dr. Hamelin describes the petitioner as having "much potential and great promise in the future for understanding molecular cancer genetics." Dr. Eng continually refers to

the petitioner as a "postdoctoral trainee." In her first letter, Dr. Eng concludes: "Although very much still in his formative years, his work in my lab to date has made contributions to the field of genetics in the context of cancer." In contrast to the latter part of the preceding statement, her second letter notes that the petitioner "couldn't do much active work until March 1999" because of the laboratory transfer. These descriptions support the director's conclusion that the petitioner has not yet risen to the top of the cancer research field. While Dr. Eng goes on to commend the petitioner for publishing three papers at a faster pace than a "new postdoctoral fellow," the overall tone of her letter suggests that the petitioner, while an effective team player, is not yet widely recognized in the cancer research field.

We note that the issue in this case is not the undoubted importance of the research conducted at Dr. Eng's laboratory, but, rather the specific contributions of the petitioner demonstrative of his national or international acclaim.

The petitioner seeks a highly restrictive visa classification, intended for aliens already at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time. We cannot ignore that many of the petitioner's witnesses, such as Doctors Eng and De La Chapelle, and the Ohio State cancer researchers mentioned in the November 15, 2000 issue of *Cancer Research*, appear to have earned considerably more prestige and authority in the scientific community. While the witness letters from the petitioner's colleagues are useful in detailing the petitioner's cancer research studies, they offer insufficient evidence to demonstrate his lasting or wide-ranging impact as a medical researcher which is critical to a demonstration of sustained national or international acclaim.

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 that he has authored or co-authored several cancer research articles. The Association of American Universities' Committee on Postdoctoral Education, on page 5 of its Report and Recommendations, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition were the acknowledgement that "the appointment is viewed as preparatory for a full-time academic and/or research career," and that "the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment." Thus, this national organization considers publication of one's work to be "expected," even among researchers who have not yet begun "a full-time academic and/or research career."

When judging the influence and impact that the petitioner's work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. Publication alone may serve as evidence of originality, but it is difficult to conclude that a published article is important or influential if there is little evidence that other researchers have relied upon the petitioner's conclusions. Frequent citation by independent researchers, on the other hand, demonstrates more widespread interest in, and reliance on, the petitioner's work.

We note that self-citation is a normal, expected practice. However, self-citation and citation from one's research collaborators cannot demonstrate the response of independent researchers.

The record contains evidence that the petitioner's articles have been cited. The petitioner submits internet citation lists for five articles he co-authored. The article appearing in *Cancer Research* was published on September 1, 1999. See Matter of Katigbak, *supra*. The remaining four citation lists reveal that an article published in *Genes, Chromosomes & Cancer* in 1998 has been cited 36 times, 31 times by independent researchers; an article published in *Oncogene* in 1996 has been cited 26 times, 20 times by independent researchers; an article in the *International Journal of Cancer* in 1999 has been cited seven times, six times by independent researchers; and an article in the *Journal of Pathology* in 1998 was cited seventeen times, thirteen times by independent researchers. The number of independent citations reflects that the articles co-authored by the petitioner have caught the attention of other researchers in the field. We note that evidence has not been provided to establish these articles were cited favorably or resulted in a significant contribution to the cancer research field. However, we still find that the petitioner has minimally satisfied this single criterion.

It must be emphasized that merely submitting evidence intended to address at least three of the criteria is not necessarily sufficient to demonstrate that the petitioner has sustained national or international acclaim at the very highest level. The petitioner must clearly establish that he is within the small percentage at the very top of the cancer research field. The petitioner has failed to demonstrate that his published works have earned him, individually, sustained national or international acclaim within the scientific community. While the petitioner has co-authored some scholarly articles, the overall record of evidence fails to demonstrate that the petitioner has reached the very top of the cancer research field.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States. The petitioner has failed to demonstrate receipt of an internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

As noted by the director, the petitioner has demonstrated an impressive career as a medical researcher. Review of the record, however, does not establish that the petitioner has distinguished himself as a medical researcher 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 indicates that the petitioner shows talent as a cancer researcher, but is not persuasive that the petitioner's achievements set him significantly above others in his 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.