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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



File: EAC-00-069-53918

Office: Vermont Service Center

Date: 03 MAY 2002

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)

IN BEHALF OF PETITIONER:



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, Vermont Service Center, and 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 the arts. In a detailed opinion that considered each of the regulatory requirements separately, the director determined the petitioner did not meet at least three criteria and, thus, 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 she has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as an artist. 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 the sustained acclaim necessary to

qualify as an alien of extraordinary ability. The petitioner has submitted evidence which, she 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.*

The petitioner won the gold prize at the National Shu Er Xuan Grand Exhibition Competition in 1995, first prize in the Hong Kong "Special Art Cup" exhibition competition, and the third Golden Swan prize in 1999. Counsel asserts that the National Shu Er Xuan competition is the "highest ranked professional and official prize in Calligraphy and Painting in China," and that over ten thousand artists from China, the United States, Canada, France, Italy, Belgium, Japan, Singapore, Malaysia, and the Philippines competed for the Golden Swan prize.

In response to the director's request for additional evidence regarding the significance of these awards, the petitioner submitted a letter from the Secretary of the National Golden Swan Award Committee regarding the National Shu Er Xuan competition. The secretary asserts that there were 10,000 competitors in 1995 and that the judges awarded 10 gold awards, 100 silver awards, and 100 bronze awards. The petitioner also submitted a letter from the International Special Talents Association which organized the Hong Kong "Special Art Cup" competition. The letter reflects that of the 1,660 art pieces at the exhibition, the judges awarded 3 first prizes, 10 second prizes, and 20 third prizes. Finally, the petitioner submitted a letter from [REDACTED] Director of the Committee of the Golden Swan Art Competition. She states:

The Golden Swan Art Competition is a Chinese national high-level artwork competition, which is held once every three years. In the 3<sup>rd</sup> International Golden Swan Art Competition [held at the World Art Center in New York City], more than 10 thousand Chinese artists from more than 19 countries around the world participated. 11 hundred pieces of art have been selected for awards.

The competition was held in New York and included Chinese artists from around the world. Yet, the record contains no press coverage of the event in major media. In fact, the record contains little national press coverage of any of the above competitions. Moreover, the petitioner has not demonstrated that the prize-winning works from any of these contests were subsequently displayed at major museums. As such, it is not clear that these are nationally or internationally recognized contests. On appeal, the petitioner submitted evidence of an award won after the date of filing that cannot establish her eligibility at the time of filing. Even if we concurred with the director that the petitioner meets this criterion, it is only one 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 petitioner is a member of the China Industrial Art Association, the Special Art Committee, the International Special Talents Association, and the Singapore Sin China International Arts

Association. The petitioner also serves as the senior art technician for the Shanghai Jiafeng Special Art Corporation. The petitioner submitted an article regarding this corporation, an "export-oriented economic entity," and the presentation of [REDACTED] tripod to the United Nations. The types of association membership contemplated by the regulations do not include employment with a commercial company.

In response to the director's request for additional documentation, the petitioner submitted a letter from the International Special Talents Association. The letter asserts that the association has 200 members, all of whom must demonstrate "special talents in art or art technology and also must have outstanding achievements and contributions." The letter does not define or provide examples of "outstanding achievements." Nor does the letter reflect that recognized national or international experts in the field judge members. Moreover, the official bylaws of the organization would be more persuasive than a letter prepared in support of the petition.

*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.*

The petitioner provided evidence of her biography in World Calligraphers and Painters, the Chinese edition, and articles printed in the *Xing Tao Daily*, the *Ming Daily News*, the *Community News Sunday*, the *China Press*, the *World Journal*, and the *Liberty Times*. Some of these "articles" appear to be advertisements for the petitioner's exhibitions in community papers.

The director requested additional evidence regarding the location and circulation of these publications. In response, the petitioner submitted new articles published in the *Economic and Trade Reporter* and the *Liberty Times* after the date of filing. The petitioner submitted no evidence to support counsel's assertions that the *Economic and Trade Reporter* is one of the major newspapers in China or that the *Liberty Times* is one of the major Chinese-language newspapers for the East Coast of the United States. Regardless, to qualify as major media, the publication should have significant national distribution and be published in a predominant language. An alien cannot earn acclaim at the national level from a regional publication or a publication printed in a language that most of the population cannot comprehend. As such, the *Liberty Times* cannot be considered major media.

The director concluded that the petitioner had not submitted the requested information regarding the location and circulation of the papers which have published articles about the petitioner. On appeal, counsel states that the petitioner is submitting such information. All that the petitioner submits relating to this criterion, however, are new articles published after the date of filing which cannot establish her eligibility at the time of filing. We concur with the director that the petitioner has not established that the submitted articles appeared in major media.

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

While counsel did not initially claim that the petitioner met this criterion, on appeal he argues that the petitioner is responsible for introducing hair embroidery into the United States. The record does not reflect that hair embroidery art has gained popularity in the United States, much less that any such gain is due to the petitioner's work. While the petitioner's references claim that her shows have been well received, the advertisements for the petitioner's shows and the articles about her are all in Chinese-language publications. The record contains no reviews of her work or exhibitions in major media. In addition, her exhibitions have all been at Asian-related functions.

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

The petitioner has displayed her work at the Shu Er Xuan Grand Exhibition Competition, the Hong Kong Special Art Cup Exhibition Competition, the 5<sup>th</sup> Singapore Chinese Art Exhibition, the 1999 Asia Expo, the United Nations Building in New York, and the gallery of the Amerasia Bank in New York to which the petitioner donated one of her works. The director requested evidence regarding the significance of these exhibitions. As noted by the director in his final decision, the petitioner's response did not address this issue.

On appeal, the petitioner submits a letter from the United Nations Book Club indicating that the United Nations has invited many famous artists from around the world to exhibit their work at the U.N., bringing different art styles from around the world to the U.N. The letter asserts that the petitioner's exhibition was the "first of its kind ever shown" at the U.N. The U.N. exhibit certainly goes beyond the rented galleries inherent to the field of art for selling one's work. Nevertheless, the evidence for each criterion must be evaluated in light of the statutory requirement for "extensive documentation" and as to whether the evidence demonstrates sustained national or international acclaim. A single exhibit with some significance cannot serve to meet this criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.*

Regarding this criterion, counsel refers to the petitioner's title as "Folk Industrial Artist" given by the U.N. Education Scientific and Cultural Organization, her title as "Contemporary Painting and Calligraphy Artist" by the Canadian World Painting and Calligraphy Artist Association, and reference letters ranking the petitioner as one of the top embroidery artists. Honorary titles are not evidence of playing a leading or critical role for the issuing organization or establishment. The record contains no evidence that the petitioner worked or otherwise performed services for either the U.N. Education Scientific or Cultural Organization or the Canadian World Painting and Calligraphy Artist Association. As such, she cannot claim that she performed a leading or critical role for either organization. Finally, recommendation letters containing general praise are not evidence of the petitioner's role for any specific organization or establishment. The director concluded that the petitioner had not established this criterion in his request for additional documentation and in his final decision. Counsel does not contest this conclusion.

*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

Counsel asserts that the petitioner earns RMB100,000 for her work as a senior technician for the Department of Art and Craft Products, which is well above the average salary of RMB 20,000 to RMB 50,000 earned by embroidery artists in China. The petitioner submitted a letter from the Shanghai Jia Feng Special Art Corporation confirming her salary as their senior technician and general manager but no evidence to support the average salaries of embroidery artists. Regardless, a comparison between the petitioner's salary as a senior technician and general manager with the average salary of embroidery artists is not persuasive. The petitioner must demonstrate that her remuneration as an artist ranks with other highly compensated artists, not merely that she earns more as a general manager than the average artist does. The record contains no evidence regarding the range of prices for hair embroidered art or receipts reflecting the past sales prices of the petitioner's work.

Finally, the petitioner submitted several references from other artists, including some with impressive reputations. These references rank the petitioner at the top of her field. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim. 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.

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 as an artist 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 an artist, 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.



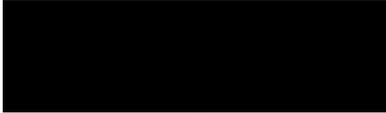
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File: EAC 00 268 50524

Office: Vermont Service Center

Date: MAY 06 2002

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)

IN BEHALF OF PETITIONER:

Self-represented

**PUBLIC COPY**

INSTRUCTIONS:

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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, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

We note that evidence on appeal appears to suggest that the petitioner has by now relocated to North Dakota. The record, however, contains no North Dakota address for the petitioner, and we therefore continue to use his most recent address of record in New York.

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 the sciences. 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

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(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 he has sustained national or international acclaim at the very top level.

At the time he filed the petition, the petitioner was a postdoctoral research scientist at Cornell University. In a cover letter, the petitioner describes himself in the third person and states that he "has excelled and risen to the very top of the field of Physical Organic Chemistry" and "has made

original, outstanding, and extraordinary contributions throughout his illustrious career as a scholar and as a scientist.”

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 the 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.*

The petitioner observes that he “earned a graduate fellowship . . . based on academic merit,” as well as “various travel awards to present his research findings at international meetings.” The petitioner places particular emphasis on his postdoctoral fellowships “at Cornell University, where the postdoctoral fellowships are awarded based on the applicant’s extraordinary analytical abilities, excellence in his research and academic merit.” Student and postdoctoral fellowships cannot show that the petitioner is one of the top researchers throughout his field, because the applicants for these fellowships are limited to students and postdoctoral workers who have not yet completed their training. Graduate study is not a field of endeavor.

The petitioner contends that “[t]he applicants who are offered the positions are the ones who have risen to the very top in their respective field[s] of endeavor,” but postdoctoral fellows, by definition, are temporary workers, generally with very low pay, who are subordinate to the faculty of the universities where they work. To assert that such individuals are at the top of their field relies upon the untenable assumption that they rank higher than the professors who supervise them, the department heads who supervise the professors, and the many other researchers who (unlike postdoctoral fellows) have already completed their training and secured permanent employment.

The petitioner has not shown that he has received any nationally or internationally recognized prizes or awards for excellence in his field. A fellowship in which the petitioner is paid for ongoing work is not an award that recognizes past work, but rather compensation for present and future work. While fellowships at prestigious institutions may be coveted, it does not follow that selectees for such fellowships become nationally known figures by virtue of their selection.

*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 record contains a letter from [REDACTED] editor-in-chief of the Journal of Organic Chemistry, soliciting the petitioner’s cooperation with a questionnaire in order “[t]o ensure that we send you manuscripts to review that are consistent with your current expertise and interests.” This document

is a "form" letter, opening with the salutation "Dear Colleague," with the petitioner's name and address computer-printed at the top. The format of the letter, therefore, indicates that this letter represents a mass mailing. Also, the letter indicates that the journal's "editors utilize a fleet of reviewer expertise codes to assist them in selecting appropriate reviewers for manuscripts." The use of "a fleet" of such codes further supports the finding that this one journal utilizes a considerable number of reviewers. If the journal had only a small number of elite reviewers, then "a fleet of reviewer expertise codes" would be unnecessary. The petitioner asserts that "[o]nly experts in the field are chosen as reviewers in top journals," but expertise is not necessarily or self-evidently synonymous with sustained national or international acclaim.

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

The petitioner asserts that witness letters, submitted with the petition, establish the significance of his scientific contributions. [REDACTED] who supervises the petitioner's postdoctoral work at Cornell University, states that the petitioner obtained his graduate degrees at excellent universities and that he "fits in very well" with other researchers in [REDACTED] laboratory. The only specific contribution that [REDACTED] discusses took place while the petitioner was a doctoral student at the University of Maryland, College Park, where the petitioner "designed and synthesized photolabile protecting groups and studied the mechanism of associated photochemical reactions." Prof. Hess does not explain the significance of this work.

[REDACTED] an associate professor who served on the petitioner's Ph.D. thesis committee at the University of Maryland, states "[i]n his thesis research, [the petitioner] prepared and characterized some novel photoremovable protecting groups. From a synthetic and mechanistic viewpoint it was a nice piece of work." [REDACTED] asserts that the petitioner "was one of the best graduate students that I have met at Maryland," and that the petitioner's "innovative and creative methods have already produced results that are both unexpected and substantial." Clearly [REDACTED] holds the petitioner in high regard, but he does not explain how the petitioner's accomplishments are of such major significance that they have contributed to national or international acclaim.

[REDACTED] a researcher at the National Institute of Diabetes and Digestive and Kidney Diseases, had studied for his doctorate alongside the petitioner at the University of Maryland. [REDACTED] states that the petitioner's "new methods . . . in the field of protecting group chemistry . . . have been applied successfully to the synthesis of some biologically interesting compounds, and his work has also broken new ground in exploring the mechanism and versatility of photochemically-induced electron transfer events in these applications." Regarding the petitioner's later postdoctoral work at Cornell, [REDACTED] states only that the petitioner "continues to develop new technologies that will likely be of great use in the scientific and medical communities." He asserts confidence that the petitioner's "career can reach great heights." This highly restrictive visa classification, however, is for those who have already reached such heights, and who are acclaimed nationally or internationally for their work. The respect and confidence of the petitioner's former classmates and mentors does not establish this level of acclaim.

The petitioner submits other letters, which, like the above, are from present and former classmates, professors, and collaborators. The witnesses describe potential applications of the petitioner's work, but their statements are not direct evidence that the wider scientific community considers the petitioner's work to be of major significance to the field. A finding of innovation does not take on major significance merely because it is useful or novel.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

The petitioner submits copies of his published articles, and observes "[t]he number of citations in scientific literature signifies the importance, completeness and impact of the work." The petitioner states that his "work has been cited in literature 11 times since he first published in 1997." We agree with the petitioner's assertion that the most important articles in a given field tend to be the most frequently cited. The petitioner, however, submits nothing to show that 11 citations over the course of more than three years is a hallmark of extraordinary ability. The record contains seven articles that, in turn, contain citations of the petitioner's work. Some of these articles contain more than one citation of the petitioner's work; the petitioner's figure of 11 citations may derive from counting these multiple citations, rather than reflecting the number of articles that cite his work.

The director instructed the petitioner to submit additional evidence, stating that the initial submission did not establish sustained acclaim or extraordinary ability. In response, the petitioner has submitted four additional letters as well as a personal statement. The petitioner observes that he was invited to lecture at universities in India and North Dakota. These invited seminars took place several months after the petition's August 2000 filing date and therefore cannot retroactively establish eligibility, even if the petitioner had submitted persuasive evidence to show that these invitations were demonstrative of sustained acclaim. See Matter of Katigbak, 14 I&N Dec. 45 (Reg. Comm. 1971), in which the Service held that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition. The remainder of the petitioner's statement is devoted primarily to reiteration of previous claims.

The petitioner asserts that the new letters are from independent witnesses, two of whom have previously cited his work. [REDACTED] assistant professor at Masaryk University in the Czech Republic, states:

[The petitioner] together with Prof. [REDACTED] one of the top scientists in the field, have published four excellent scientific papers in the leading chemical journals, in which they reported a design and detailed investigation of a new type of photolabile protecting groups for organic chemistry and biology. Their work certainly brought [the] high attention of chemists and biochemists around the world. . . . In his work, [the petitioner] showed to be an experienced chemist in many research fields.

We cannot ignore that [REDACTED] refers to Prof. Falvey as "one of the top scientists in the field," whereas the petitioner is "an experienced chemist." The plain wording of the regulation states that, to be eligible for the classification, one must be at the very top of the field. Working as an assistant to such an individual cannot suffice.

In a similar vein, [REDACTED] assistant professor at the University of Denver, does not describe the petitioner as a top figure in the field. Rather, he states that the petitioner "carried out his graduate studies . . . under supervision of one of the leaders in the field [REDACTED] Falvey of the University of Maryland," and that the petitioner's postdoctoral supervisor, [REDACTED], is "the leading authority in the field of biological applications of photo-triggered substance release." [REDACTED] indicates that the petitioner's research at the University of Maryland "significantly improved our understanding of underlying principles of excited state reactivity and electron transfer," and that the petitioner's ongoing postdoctoral research is "very promising" and "will have, an enormous impact on the situation in the field." Clearly [REDACTED] views the petitioner's professors, rather than the petitioner himself, as leaders in the field, and his opinions regarding the significance of the above projects appear to say more about the reputations of the professors than that of the petitioner.

[REDACTED] is a postdoctoral researcher at the University of Pennsylvania who has corresponded with the petitioner about their common area of interest but has not met the petitioner personally. [REDACTED] states that the petitioner "is a promising young scientist" who has won prestigious fellowships and published important articles. [REDACTED] an assistant professor at [REDACTED] in Poland, states that the petitioner's "outstanding work . . . is a very important step towards achieving a goal of fine-tuned, light-controlled chemical reactions in a large array of biochemical systems."

The newly submitted letters help to establish that researchers outside of the petitioner's own circle regard his work as significant, but they do not contribute appreciably to a finding of national or international acclaim. Several of the witnesses make a point of saying that the petitioner's supervisors are leaders in their field, but they do not make similar observations about the petitioner himself. This suggests that at least some of the attention paid to the petitioner's work is a result of the reputations of the laboratories where he has worked rather than his individual contribution.

The director denied the petition, stating that while the petitioner has established a "high level of competence," he has not produced objective documentation that would establish the required level of sustained acclaim. The director observed that the petitioner is still at a very early stage in his professional career and his current position as a low-paid postdoctoral trainee is not indicative of sustained acclaim as a leading scientist.

On appeal, the petitioner again repeats prior arguments, and submits a letter from [REDACTED] of the University of North Dakota, who indicates that the university is "in the process of hiring [the petitioner] to fill a full-time, tenure-track faculty position in our department." While this job offer is certainly a significant step in the petitioner's career, it does

not demonstrate his eligibility for the extremely restrictive immigrant visa classification that he has chosen to pursue. Even if this offer had been made before the petition's filing date (which it had not), employment as an assistant professor does not inherently cause national acclaim, nor does it necessarily reflect existing acclaim.

The petitioner has argued that his evidence nominally meets more than three of the criteria set forth at 8 C.F.R. 204.5(h)(3). We must, however, examine this evidence in its proper context. For instance, with regard to the petitioner's judging the work of others, his journal review work appears to be common and routine, judging by the use of computer-generated "form" letters and "a fleet of reviewer expertise codes." The petitioner has submitted nothing from the journal's editorial board to confirm that only the top figures in the field are asked to perform such reviews. Witnesses have identified not the petitioner, but his superiors, as leaders in their common field. We cannot infer, from these letters, that the witnesses also regard the petitioner himself as a leader, but for some reason have chosen not to say so.

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 himself as a 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 is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a national or international level. 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.