PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

B2

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass., 3/F
Washington, D.C. 20536

[redacted]

File: [redacted] Office: California Service Center Date: JUL 11 2003

IN RE: Petitioner:
Beneficiary: [redacted]

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:

[redacted]

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 Bureau of Citizenship and Immigration Services (Bureau) 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 employment based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office 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 and education. The director determined the petitioner had not established that he qualifies 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.

The regulation at 8 C.F.R. § 204.5(h)(5) states, in pertinent part:

> ...the petition must be accompanied by clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States.

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 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.

This petition, filed on February 22, 2002, seeks to classify the petitioner as an alien with extraordinary ability as a "Chinese Chef/Chinese Culinary Instructor." The statute and regulations require the petitioner's acclaim to be sustained. Information provided by the petitioner indicates that he entered the United States with a B-1 visa on December 12, 1999 and has been residing here since that time. Given the length of time between the petitioner's 1999 arrival date and the petition's filing date, it is reasonable to expect the petitioner to have earned national acclaim in the United States during that time. The petitioner has had ample time to establish a reputation as a chef/culinary instructor in the United States.

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 that, counsel 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 submitted two certificates issued by the "Organizing Committee of the Third National Cuisine Competition" in 1993. An accompanying English language translation of the first certificate states: "[The petitioner] pridely [sic] won the golden award in the Third National Cuisine Individual Competition of Hot Dishes." The second certificate reflected his receipt of a "golden award in the... Team Competition."

Information about the Third National Cuisine Competition from the China Culinary Association states:

> Thirty individuals from Beijing won prizes for excellence in the contest, including Li Jianuo, Shi Zhiguo, Li Yingmin, [the petitioner], etc."
>
> * * *
>
> Held every five years... the National Cuisine Contest is the highest level cuisine competition in the country.... Individual competitions are held in four cities (Xi'an, Wuhan, Shijiazhuang, Suzhou) and in four categories (Hot Dish, Dessert, Cold Dish, Fruit and Vegetable Carving), and each individual can only compete in no more than two categories. There are more than 1,700 contestants and more than 3,600 entries in the competition.... The contest gathered the best of the local dishes in the country... and it represents the state of the art of the current Chinese culinary art.

As further evidence of the significance of this award, the petitioner submitted an article appearing in *Chinese Cuisine* (2000) entitled "The Fourth National Cuisine Contest." It states:

> The Fourth National Cuisine contest lasted three months from October 18th to December 14th. The contest was held at five competition centers located at five cities... and it was the most important culinary event since the Third National Cuisine Contest six years ago.... In the closing ceremony, the contest handed out medals and trophies to winners of the Gold Medal in team competition, winners of "Everyday Banquet" team competition, as well as title winners of "Excellent Chef," "Best Chef," and "National Technique Champion."

Also submitted was a memorandum dated June 21, 1999, describing the types of prizes to be awarded at the contest:

> 1) Winners of the first prizes for a single category shall be awarded the title of "National Technique Champion."
>
> 2) Individuals with the total scores ranked 30 or above nationally shall be awarded the title of "Best Chef/Dessert Chef/Restaurant Waiter/Waitress of the Fourth National Cuisine Contest"
>
> 3) Individuals with total scores ranked between 30-100 nationally shall be awarded the title of "Excellent Chef/Dessert Chef/Restaurant Waiter/Waitress of the Fourth National Cuisine Contest"
>
> 4) There will also be awards for team efforts. The Organization Committee will award the gold, silver, bronze, and excellent prize to the teams according to their total scores.

The petitioner has not established how his "golden award" ranks in comparison to the other awards listed above. That the Chinese Culinary Association lists the petitioner among thirty individuals from the City of Beijing who won "prizes for excellence" seems to suggest that the petitioner's individual award would fall under item #3 above (the lowest level for an individual award presented at the competition). We find no evidence to indicate that the petitioner's receipt of a golden award is at the same level of recognition as a first prize "National Technique Champion."

The record contains a "Winners List" from the Fourth National Cuisine Competition published in *Chinese Cuisine* (2000). The petitioner submitted a translation summarizing the number of awards presented under each category:

	Gold	Silver	Bronze
Hot Dishes	184	229	279
Dessert	36	43	66
Cold Dishes	62	80	107
Chinese Food Catering	37	45	54

Based on the evidence submitted from the Fourth National Cuisine Competition, it is apparent that a large number of contest entrants are recognized as golden award winners, thus diminishing the significance of the petitioner's award. We further note that the record contains no evidence of national media coverage about the petitioner's receipt of an award at the Third National Cuisine Competition. The absence of such evidence raises doubt as to the level of recognition accorded to a golden award.

On March 30, 2000, the China Domestic Trade Bureau granted the petitioner the title of "China Great Chef Master." An article appearing in *Chinese Cuisine* (2000) indicates that 54 other individuals simultaneously received that same honor. The article goes on to state: "To qualify for Great Chef Master, one has to have at least 25 years of experience in the field..." The petitioner, born in 1967, was 33 years old as of March 30, 2000. Therefore, in order to have met the experience requirement, the petitioner would have had to begin his culinary career at the age of eight. The record includes a letter from the Beijing Grand Hotel confirming that the petitioner's employment there commenced in 1985 (at age eighteen) but the record contains no information about the petitioner's culinary career during the prior decade. The petitioner has not resolved this issue.

The petitioner submitted two certificates issued by the "Organizing Committee of the 1995 Beijing Regional Cuisine Competition" reflecting his receipt of a golden award in the individual "Hot Dish" and "Team Sichuan Dish" competitions. These two awards, however, reflect regional, rather than national or international, recognition.

Two other awards provided by the petitioner, a silver medal in the 1993 "Beijing Cooking Competition for Striving to Hold the Olympic Games" and a prize of excellence from the 1996 "Asian Chefs' Beijing Region Trial," are also reflective of only local or regional recognition.

The petitioner also submitted evidence of his "participation" in the Bocuse d'Or '99 Contest in Lyon, France. The record contains no evidence showing that the petitioner won an international "prize or award" at this event. Simply earning the right to compete in an international contest would not satisfy the restrictive nature of this criterion.

On appeal, counsel acknowledges this fact but argues that the petitioner's participation in Bocuse d'Or "was the result of his winning a national selection." Were the petitioner to submit evidence showing that the preliminary competition to represent China at the Bocuse d'Or in Lyon was indeed truly national in scope, the petitioner's selection could be considered as comparable evidence for this criterion under 8 C.F.R. § 204.5(h)(4). However, a letter from Liu Guo Zhu, Jury Member of '97 and '99 Boscue d'Or World Cuisine Contest and First Grade Judge of the China National Cuisine Contest, states:

> I would like to provide the following information on how [the petitioner] was selected to be the official competitor representing the cooking of China at the '99 Boscue d'Or World Cuisine Contest:
>
> 1. The China Culinary Association (a.k.a. China Cuisine Association) delegated the National Selection to **Beijing Culinary Association**, which **selected from the Beijing region** the

gold medal winners from the China National Cuisine Contest as candidates of the competition. [Emphasis added]

2. The National Selection was held between June 20-30, 1998 at Grand Hotel Beijing [the petitioner's employer from 1985 to 1999]. There were a total of thirty candidates.

Thus, the competition to represent China at the '99 Boscue d'Or Contest in France was limited to "golden award" winners from "the Beijing region." As noted previously, thirty individuals from Beijing won prizes for excellence in the Third National Cuisine Contest. In light of the information presented above, it is apparent that what is referred to by counsel and Liu Guo Zhu as a "national selection" was in actuality a regional or city-wide selection.

Finally, the record contains no evidence of any awards received by the petitioner since his 1999 entry into the United States. Therefore, whatever reputation he might have enjoyed as an award-winning chef in China has not been sustained.

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.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. In addition, it is clear from the regulatory language that members must be selected at the national or international, rather than the local, level. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted evidence of his membership in the China Culinary Association. Also submitted were the membership requirements from the association's bylaws (adopted on May 10, 1999). Section 8 of the bylaws states:

To become a member of the Association, the applicant must meet the following qualifications:

Individual Membership: Any chef, dessert chef, caterer, doctor, nutrition advisor, researcher, artist, and culinary theory researcher with senior or above professional proficiency title, and any restaurant entrepreneur with many years experience in restaurant management, who upholds the association statute and loves Chinese culinary art, can apply for membership.

The record also contains a letter from the Chinese Culinary Association dated May 7, 2002, stating: "To become a member of the China Culinary Association, the applicant has to be recommended by the Beijing (local) Culinary Association and the applicant needs to submit a written application, and the application shall be subject to evaluation by the association."

Also submitted was a certificate stating that the petitioner was "selected as a director of the Third Term Board of Directors of the Beijing Culinary Association." This is a local membership.

The evidence presented does not establish that membership in either association required outstanding achievement of its members or that the petitioner was evaluated by national or international experts in consideration of his membership.

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.

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other *major* media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. An alien would not earn acclaim at the national level from a local publication or from a publication in a language that most of the population cannot comprehend. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.

The petitioner submitted a single translated article entitled "Chinese Dishes in Korea are now Part of Korean Cuisine." The name and date of the publication featuring this article were not provided. Nor was evidence of its national or international distribution.

The record contains no evidence of published material about the petitioner originating in the United States. Because the statute and regulations demand *sustained* national or international acclaim, the petitioner would not satisfy this criterion unless he were the subject of regular coverage in major national or international publications.

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.

We withdraw the director's finding that the petitioner satisfies this criterion.

In an occupation where "judging" the work of others is an inherent duty of the occupation, such as a coach, instructor, teacher, professor or editor, simply performing one's job related duties demonstrates competency, and is not evidence of national or international acclaim. Instead, the petitioner should demonstrate that his sustained national or international acclaim resulted in his selection to serve as a judge of the work of others. Similarly, the competition or contest should be on a national or international level and involve accomplished professionals in the petitioner's field. For example, judging a national cooking contest would carry far greater weight than judging a citywide competition.

The petitioner submitted a translated certificate reflecting that he successfully completed a Food and Beverage National Grade Judge Qualification Training class in September 1999. As noted by the director, the petitioner did not submit "documents showing that he has been a judge in any culinary competitions."

Also submitted was a translated "Certificate of Appointment" (1997) congratulating the petitioner for his selection as "a member of the Appraisal Committee of Beijing Famous Dishes and Famous Desserts in celebration of the return of Hong Kong." The certificate presented offers no details of the petitioner's involvement and cannot satisfy the statutory demand for "extensive documentation" set forth in Section 203(b)(1)(A)(i) of the Act. No other documentary evidence regarding the petitioner's participation as a judge was provided, nor did the petitioner submit any documentation of national or international publicity surrounding the appraisal committee or the dishes and desserts that it evaluated. Counsel states:

> As an appraiser, [the petitioner's] job was, along with other members in the committee, to evaluate and grand the Certificate of Famous Dishes and Desserts to the qualified dishes and desserts [sic]. As such, the individuals and/or businesses that had created the famous dishes and/or famous desserts could use the certificate in a way a brand name product would be used to attract customers.

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). We further note that the petitioner's appointment to this Beijing committee is local, rather than national or international, in scope.

It is also noted that the petitioner did not receive his Qualification Certificate of National First Grade Judge until November 1999. The record contains no evidence of any national contests judged by the petitioner in China or the United States subsequent to that date. Without evidence that sets the petitioner apart from others in his field, such as evidence that he has judged an unusually large number of well-known contests or presided over national or international level competitions, we cannot conclude that he meets this criterion.

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

The petitioner submitted evidence of his participation in an instructional video series produced by the China Light Industry Publishing House. The record contains no evidence showing that the video featuring the petitioner enjoyed significant national distribution, earned critical acclaim or national awards, or that its release was a major commercial success (as documented by a high sales volume). Nor is there evidence to establish that the petitioner's individual contribution to the video series (which similarly featured thirteen other chefs) would qualify as a contribution of major significance in the culinary field.

The petitioner also submitted testimonial letters from Guozhu Liu and the Beijing Chinese

Culinary Culture Research Institute, but these letters simply catalogue the petitioner's achievements as a chef rather than addressing his specific contributions which have influenced the culinary field. The petitioner's awards, for example, have already been addressed under a previous criterion. The issue here is not the skill level or qualifications of the petitioner, but, rather, whether any of his past accomplishments would qualify as a contribution of major significance in the culinary field.

An individual with sustained national or international acclaim should be able to produce ample unsolicited materials reflecting that acclaim. If the petitioner's culinary achievements are not widely praised outside of Beijing, then it cannot be concluded that he enjoys sustained national or international acclaim as one who has reached the very top of the field. A simple comparison of the petitioner's achievements with those of Guozhu Liu shows that the top of the field appears to lie above the level that the petitioner has reached.[1]

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

We withdraw the director's finding that the petitioner satisfies this criterion.

Counsel asserts that the petitioner's participation in "various culinary art exhibitions in foreign countries" would satisfy this criterion.

In support of this claim, the petitioner submits two letters from Dingbang Chen, Manager, Metropole Hotel (Hong Kong). The first letter, dated April 23, 1998, thanks the petitioner for his participation in a "technique exchange program" between the Metropole Hotel and the Beijing Grand Hotel (the petitioner's employer at that time). The second letter, dated May 15, 2002, and submitted in response to the director's request for evidence, states:

> The Metropole Hotel has been sponsoring cuisine exhibitions each year in collaboration with Chinese and foreign food and beverage service organizations.
>
> * * *
>
> Especially noteworthy are "The Authentic Sichuan Dishes" cuisine demonstration in which Mr. Guozhu Liu, a member of the World Culinary Association, was the head chef, and "The Best of Beijing Tan Family Dishes" cuisine demonstration in which [the petitioner] was the head chef. These two cuisine demonstrations were extremely successful, and received acclaim from both local and visiting guests.

Also submitted was a letter from The-Chu Hou, Vice President, Culinary, The Shilla Hotels and Resorts. He states:

> To promote the exchange of Chinese culinary art, Shilla Hotel of Korea and Grand Hotel of

---

[1] It is noted that the petitioner and Guozhu Liu both share the same last name. It is not clear whether the two are related.

> Beijing began jointly sponsoring Chinese food festivals since 1995.... A team of six chefs headed by [the petitioner] participated in the two-week long Sichuan Food and Hot Pot Festival, and their performances and demonstrations were warmly received by the attending Koreans.

Allowing any chef that prepared dishes at a promotional food festival to satisfy this criterion would defeat the restrictive nature of Section 203(b)(1)(A) of the Act, thus rendering this criterion meaningless. The petitioner must show that his culinary exhibitions elevate him to the very top of his field at the national or international level. In this case, the record indicates that the petitioner has always displayed dishes among other chefs and it has not been shown that those other chefs enjoyed national or international reputations. The petitioner has not submitted evidence to demonstrate his participation in a show or exhibition devoted solely or largely to the display of his culinary creations alone. Thus, the petitioner has not shown that his food festivals, which appear limited to guests and visitors at a particular hotel, enjoy a national or international reputation, or that participation in those exhibitions was a privilege extended to only top chefs. Finally, there is no evidence to show that the petitioner has sustained his acclaim through continued participation in culinary exhibitions subsequent to his 1999 arrival in the United States.

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

In order to establish that he performed in a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment. The record adequately establishes that the Beijing Grand Hotel is an organization with a distinguished reputation.[2] The record further reflects that the petitioner played a leading and critical role for the hotel as its head chef. Thus, the evidence presented would appear to satisfy this criterion. The record, however, contains no evidence showing that the petitioner has actually engaged in, or positioned himself to serve in, a comparable leading or critical role as a chef here in the United States.

Beyond the decision of the director, the regulation at 8 C.F.R. § 204.5(h) requires the petitioner to "continue work in the area of expertise." The record contains no evidence to suggest that any major hotels or resorts in the United States are interested in employing the petitioner as a head chef. A $2,800 per month job offer from Yen Ching Restaurant in Fresno, California is not indicative of sustained national acclaim as a chef in the United States. It has not been shown through documentary evidence that the Yen Ching Restaurant or the Feng Man Food Products Corporation (which has also offered the petitioner employment) enjoy distinguished reputations on par with "five star" hotels and resorts here in the United States.

The petitioner has submitted a statement detailing his plans on how he intends to continue his work in the United States. The petitioner states that he plans to continue his work in culinary art in the following ways:

---

[2] For example, the record contains published articles citing the hotel's "five-star" status.

> With my technique know-how I would purchase shares of stocks from an existing restaurant or invest in a new restaurant, and work as executive or head chef to transform the restaurant into a first-grade Chinese restaurant...
>
> * * *
>
> In order to promote the Chinese culinary art in the United States, I will open culinary training classes in the United States to pass on my superior culinary skills and rich culinary knowledge to American students...
>
> * * *
>
> When the circumstances allow me, I would utilize my reputation, influence, and connections in the Chinese culinary community to establish culinary exchange programs between China and America.

As of the date that counsel submitted the appeal brief (December 23, 2002), the petitioner had been residing in the United States for over three years. The record, however, contains no evidence showing that the petitioner has made progress in achieving any of the above goals. Nor has it been shown that the petitioner holds a job title or has the economic means allowing him to pursue restaurant ownership through personal investment, open a culinary training school, or create a culinary exchange program.

In this case, the wealth of the petitioner's documentation relates to his work as a chef at the Beijing Grand Hotel from 1985 to 1999. Little, if any, of the petitioner's documentation relates to his abilities as a restaurant investor, culinary school instructor, or foreign exchange program coordinator. While these positions may require knowledge of food preparation, the jobs all rely on very different sets of basic skills. Thus, the jobs are not the same area of expertise. This interpretation has been upheld in Federal Court. In *Lee v. Ziglar,* 237 F.Supp.2d 914 (N.D.Ill. 2002), the court stated:

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

Id. at 918. Therefore, the petitioner has not established that his future plans for employment (as described in his personal statement) are within his claimed area of expertise as a chef. It is also worth noting that, according to Part 3 of his Form I-140, the petitioner claims "pending F-1" nonimmigrant visa status. This raises further questions about the petitioner's plans for employment here in the United States. If the petitioner is attending culinary classes under F-1

nonimmigrant visa status, which requires a full-time course of study, the question necessarily arises as to why a top chef would require such full-time schooling. On the other hand, if the petitioner is pursuing full-time education in an area unrelated to the culinary arts, it raises the question as to whether the petitioner seeks to continue working as a chef.

In sum, the evidence fails to show that the petitioner has earned sustained national or international acclaim as a chef, restaurant investor, culinary school instructor, or foreign exchange program coordinator in China or the United States.

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 a major 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.

A review of the record does not establish that the petitioner has distinguished himself as a chef 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 his 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.