

read... to  
prevent... warrants  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



*BE*

**JUN 13 2005**

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date:  
WAC 03 107 53752

IN RE: Petitioner: [Redacted]  
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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

*Mari Johnson*

*sn* 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 sciences. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

(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 into the United States will substantially benefit prospectively the United States.

The applicable regulation defines the statutory term "extraordinary ability" as "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). Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.*

In this case, the petitioner seeks classification as an alien with extraordinary ability in the sciences, specifically as a researcher of plant molecular and cell biology. The petitioner submitted numerous documents with the petition including her doctoral degree, various academic awards, documents regarding membership in two professional associations, excerpts of her published articles, citation information for her articles, two articles discussing her research, seven recommendation letters from scientists in her field; and reprint requests and electronic mail messages concerning assistance that the petitioner has given to other scientists. The director determined that the record did not establish that the petitioner was an alien of extraordinary ability. On appeal, the petitioner submits a three-page brief and supplemental evidence including a printout of an online interview, documentation relating to her judgment of the work of others, and one additional recommendation letter. The petitioner's claims and the additional evidence submitted on appeal do not overcome the substantive reasons for

denial and we affirm the director's decision. The evidence submitted, the petitioner's claims and the director's decision are addressed in the following discussion of the regulatory criteria relevant to the petitioner's case.

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

The director correctly determined that the petitioner did not meet this criterion and the petitioner does not contest that conclusion on appeal. The record contains photographs of various awards the petitioner earned as an undergraduate and graduate student in China. The award certificates are not translated in accordance with 8 C.F.R. § 103.2(b)(3). Even if sufficiently translated, however, these awards would not meet this criterion. Awards for scholastic achievement are only granted to students and do not establish the requisite sustained acclaim as an established research scientist.

The record also contains a copy of a "Certificate of Research Excellence" granted to the petitioner by the Center for Plant Cell Biology (CEPCEB) at the University of California, Riverside. The certificate reads "In recognition of research excellence in the field of plant cell/molecular biology we hereby bestow upon Ying Fu The 2003 CEPCEB Outstanding Postdoctoral Fellow Award at the CEPCEB Award Ceremony and Special Lecture held on this fourth day of February in the year two thousand and three." The record contains no information regarding the significance of this award. On its face, the award appears to be an internal honor granted to postdoctoral fellows at one institution and does not reflect sustained national or international acclaim as an established research scientist. Accordingly, the petitioner does not meet this criterion.

*(ii) 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 director correctly concluded that the petitioner did not meet this criterion and the petitioner does not contest that determination on appeal. The record contains an excerpt from the 2002 Membership Directory of the American Society of Plant Biologists (ASPB) listing the petitioner as a member and a printout from the ASPB website. The printout states that ASPB has "close to 6,000 members from academia, government, and industry: teachers and students, biochemists, cell and molecular biologists, geneticists, and physiologists. Our members are devoted to advancing research, education, and outreach in the plant sciences." The printout does not state the society's membership criteria and no other evidence establishes that outstanding achievements are a prerequisite to ASPB membership.

The petitioner also submitted a letter attesting to her membership in The American Society for Cell Biology (ASCB) and a printout from the society's website. The printout states that "[t]he Society's objective is to provide for the exchange of scientific knowledge in the area of cell biology. . . . Since its founding, the ASCB has grown to more than 10,000 members." The printout lists the qualifications for regular or postdoctoral membership as sponsorship by a regular or postdoctoral member in good standing and a masters, doctoral or equivalent degree or experience. These requirements are not outstanding achievements for successfully employed research scientists. The record indicates that neither the ASCB nor the ASPB require outstanding achievements as a prerequisite to membership. Accordingly, the petitioner does not meet this criterion.

*(iii) Published material 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 director correctly determined that the petitioner did not meet this criterion. On appeal, the petitioner submits a printout of an online interview of her by the Institute for Scientific Information's Essential Science Indicators Special Topics. This interview occurred after the petition was filed and consequently cannot be considered. The petitioner must establish her eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). The record also contains a letter apparently requesting an interview with the petitioner to feature her in a "Scientist Today" column of *Exploring* magazine published in China. The English translation is not certified and we consequently cannot determine if the letter supports the petitioner's claim. See 8 C.F.R. § 103.2(b)(3). In addition, the record contains no evidence that the petitioner's profile was actually published in the magazine.

The petitioner originally claimed eligibility under this criterion by virtue of the citation of her published articles and two articles that discuss her research. The record contains printouts from the website of the Institute for Scientific Information (ISI) indicating that five articles of which the petitioner is the lead author have been cited a total of 59 times. However, the printouts do not list the individual citing articles and the record contains no other evidence to establish that all or the majority of these citations were made by independent researchers in professional or major trade publications or other major media. More importantly, the record contains no evidence that the citing articles substantively discuss the petitioner's work in a manner that would satisfy this criterion. Accordingly, the limited information regarding the citation of the petitioner's work does not meet this criterion.

The petitioner also submitted two articles that discuss her research. The first article is entitled "Signal Transduction: Rho-like Proteins in Plants" and was published in the August 6, 2002 edition of *Current Biology*. One and a half paragraphs in the three-page article discuss the petitioner's research and an article of which she is the lead author. The petitioner's work is cited five times and is listed among 19 other references at the end of the article. The second article is entitled "Oscillating Actin" and was published under the "In Brief" section of the March 5, 2001 edition of *The Journal of Cell Biology*. The article summarizes the petitioner's research which was published in the same edition of the journal. While notable, these two brief discussions of the petitioner's work do not reflect the sustained national or international acclaim requisite to classification as a scientist of extraordinary ability. Accordingly, the petitioner does not meet this criterion.

*(iv) 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 petitioner did not originally claim eligibility under this criterion. On appeal, she submits evidence that she has reviewed one paper for the journal *Plant Biology*; assisted in selecting the recipients of the 2004 Outstanding CEPCEB Graduate Student and Postdoctoral Awards at the University of California, Riverside; and was a judge for a regional science and engineering fair. This evidence arose after the petition was filed and consequently cannot be considered. The petitioner must establish her eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the petitioner does not meet this criterion.

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

The petitioner initially submitted seven recommendation letters from scientists in her field and submits an additional letter on appeal. While such letters provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his or her field beyond the limited number of individuals with whom he or she has worked directly. Even when written by independent experts, recommendation letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has sustained national or international acclaim. Accordingly, the letters will be discussed in relation to other relevant evidence in the record.

The following scientists in the petitioner's field have written the submitted recommendation letters. [REDACTED] Reader in Plant Cell Biology at the School of Biosciences, University of Birmingham in the United Kingdom, states that she first met the petitioner when she visited the laboratory of the petitioner's present supervisor, [REDACTED] and is familiar with the petitioner's work through meeting her at scientific conferences and reading her publications. [REDACTED] is a professor of Botany and Developmental Biology in the Center for Plant Cell Biology and the Department of Botany and Plant Sciences at the University of California-Riverside (UCR) where the petitioner currently works in another laboratory. [REDACTED] of Plant Cell Biology at the China Agricultural University in Beijing, states that he collaborated with the petitioner when he was a visiting professor and she was a graduate student at the University of Hong Kong. [REDACTED] Associate Professor of Plant Cell Biology in the Department of Botany and Plant Sciences at UCR, is the petitioner's supervisor. [REDACTED] that the petitioner joined his laboratory "as a postdoctoral research associate nearly three years ago. [REDACTED] a senior scientist at the Monsanto Life Science Company, states that he is "not personally acquainted with [REDACTED] and [he knows [REDACTED] work basically through her publications." [REDACTED] Professor of Biological Sciences at Purdue University, states that he has known the petitioner for more than four years. [REDACTED] of Plant Cell Biology at UCR, states that she became "familiar with [REDACTED] reviewing and reading her publications, and more recently as the Director of the Center for Plant Cell Biology at UCR where [REDACTED] is currently working." On appeal, the petitioner submitted a letter from [REDACTED] Wasteneys at the University of British Columbia in Vancouver, Canada. [REDACTED] that he has known the petitioner for over four years and is currently collaborating with her on a research project.

We note that the director incorrectly stated that all of the recommendation letters were written by the petitioner's "co-workers and former professors" and found "no evidence that the petitioner's reputation has traveled beyond the confines of the institution where the petitioner has studied and worked." As listed in the preceding paragraph, two of the letters were written by scientists in the petitioner's field who have not worked with her directly and are not associated with the schools she attended or the university where she is currently employed. The director did not discuss the letters or other relevant evidence under this category and incorrectly stated that no evidence was submitted under this criterion. Yet these errors have not prejudiced the petitioner because, as discussed below, the record does not demonstrate her eligibility under this criterion.

The letters primarily discuss two specific contributions that the petitioner has made to her field. First, the petitioner has researched ROP GTPase signaling in cytoskeletal dynamics and organization. [REDACTED] attests that the petitioner "has demonstrated that the dynamics of actin cytoskeleton in pollen tubes is controlled

by Rop1 GTPase and is critical for pollen tube tip growth” and heralds this work as “seminal.” Professor Lord states that the petitioner’s research “is a critical breakthrough in reproductive plant biology. . . . [redacted] research accomplishments will provide enormous potential to benefit the US agriculture and economy. [redacted] explains that the petitioner’s work “led to a significantly insightful understanding in reproductive plant biology. And most importantly, it also provides a molecular basis for genetically improving crop productivity.” [redacted] opines that “this discovery was one of the most significant breakthroughs in our field from the last decade.” The petitioner’s advisor, [redacted] also describes this work as “one of the most important breakthroughs in our understanding of the cytoskeleton and polar cell growth in plants.” The petitioner’s work was documented in an article entitled “Rop GTPase-dependent dynamics of tip-localized F-actin controls tip growth in pollen tubes” of which she is the lead author and that was published in the March 5, 2001 edition of *The Journal of Cell Biology*, which many of the letters describe as one of the most prestigious journals in the field. The record contains documentation that *The Journal of Cell Biology* has an impact factor of 12.9. The record further indicates that the petitioner’s article has been cited 33 times, although (as previously discussed under the third criterion) it is not clear that the majority of these citations were by independent research teams.

Second, as stated by [redacted] the petitioner “established that in various vegetative cells (for example, leaf epidermal cells), Rop2 GTPase controls cell shape formation through polar accumulation of cortical F-actin. She has demonstrated that Rop modulation of cortical F-actin formation is a universal mechanism for the control of cell expansion in plants.” [redacted] describes this work as “an extremely novel and important finding.” Professor Lord explains that the petitioner’s work “provides the first signaling mechanism known to control cell shape in plants.” [redacted] this research as “marvelous work” that “will definitely be useful to generate plants with desired shapes in [the] horticulture field.” [redacted] also note that the petitioner’s work in this area may contribute to the understanding and treatment of human mental and neuronal disorders because neuronal growth is analogous to the pollination process and also requires Rho GTPases. This work was documented in an article entitled “The ROP2 GTPase controls the formation of cortical fine F-actin and the early phase of directional cell expansion during Arabidopsis organogenesis” of which the petitioner is the lead author and that was published in the April, 2002 edition of *Plant Cell*, which many of the letters describe as a top-ranked journal in the field. The record contains documentation that *Plant Cell* has an impact factor of 11.1. The record further indicates that this article has been cited nine times, although (as previously discussed under the third criterion) it is not clear that the majority of these citations were by independent research teams. The article was also cited and briefly discussed in the *Current Biology* article discussed above under the third criterion.

While the record indicates that the petitioner has made valuable contributions to her area of expertise, it does not establish that the petitioner’s work made original contributions of major significance to her field in a manner consistent with the requisite sustained national or international acclaim. Rather, the evidence only indicates that the petitioner’s most significant work has been documented in two articles published in respected journals and that one of the articles has purportedly been widely cited. Moreover, many of the letters praise the petitioner’s accomplishments as “extraordinary” for a young scientist and intimate that her best work is yet to come. [redacted] places the petitioner in “the top 3% of young scientists with similar experience in her field.” The petitioner’s advisor [redacted] also heralds the petitioner’s accomplishments given the “early stage of her research career.” [redacted] remarks that “[a]t this young age, [the petitioner] has already been well recognized as an outstanding accomplished scientist. However, I am totally convinced that we have yet to see the best of [redacted] believes that the petitioner’s most recent work establishes a “new concept [that] will revolutionize the field of plant cell biology,” but states that the research has not yet been submitted for publication. Although the petitioner’s contributions may be remarkable for a young scientist, the

regulation mandates her comparison to scientists who have already risen to the very top of the field and requires that her contributions reflect the requisite sustained acclaim. 8 C.F.R. § 204.5(h)(2) – (3). The record does not establish that the petitioner has made contributions of major significance in her field consistent with sustained national or international acclaim. Accordingly, the petitioner does not meet this criterion.

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

The director correctly determined that the petitioner did not meet this criterion, in part, because several of her articles were published while she was a doctoral student. On appeal, the petitioner contends that “a Ph.D holder has to be with extraordinary ability, talents to achieve the number and quality of my publications” and notes that she has published five articles since receiving her doctoral degree. [REDACTED] states that the petitioner is “the most productive postgraduate I have ever known in my 20 year scientific career.” [REDACTED] also states that the petitioner’s publication “record is by far the most outstanding for any postdoctoral scientist that I have known for the last eight years of my professorship.” As discussed above under the fifth criterion, we recognize that the petitioner’s accomplishments may be remarkable for a postdoctoral fellow and young researcher. However, the relevant comparison is to scientists who have risen to the very top of their fields. Moreover, frequent publication of research findings is inherent to success as an established scientist and does not necessarily indicate the sustained acclaim requisite to classification as an alien with extraordinary ability. Evidence of publications must be accompanied by documentation of consistent citation by independent experts or other proof that the alien’s publications have had a significant impact in his or her field.

The petitioner states that she has “15 published papers in professional journal[s].” The record contains evidence that the petitioner has published 11 articles in reputable scientific journals and three abstracts in conference publications. The petitioner is the lead author of seven of the articles published in journals. The record indicates that six of these articles have been cited between three and 33 times each. However, as noted above under the third criterion, the record contains no information regarding the citing articles that would establish that the majority of citations were made by independent researchers. Also discussed under the third criterion was the citation and discussion of one of the petitioner’s articles in the *Current Biology* review and the editorial synopsis of the petitioner’s article published in the March 5, 2001 edition of *The Journal of Cell Biology*.

We note that the petitioner’s article published in *The Journal of Cell Biology* in 2001 has been cited 33 times. The impressive citation record of this single article is insufficient to demonstrate the requisite sustained acclaim when two of the petitioner’s other articles have apparently never been cited and the others have been cited between only three and nine times each. Accordingly, the petitioner does not meet this criterion.

*Comparable evidence under 8 C.F.R. §204.5(h)(4).*

On appeal, the petitioner submits five documents as comparable evidence of her eligibility. Most of this evidence arose after the petition was filed and consequently cannot be considered. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49. The remaining documents are a compact disc cover that features one of the petitioner’s research images, but is irrelevant to her eligibility and the letter of Professor Wasteneys that was previously discussed under the fifth criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim

demonstrating that the alien has risen to the very top of his or her field. The evidence in this case indicates that the petitioner is a talented and productive postdoctoral researcher who has great potential for further success. However, the record does not establish that she was an alien of extraordinary ability in the sciences at the time of filing.

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.