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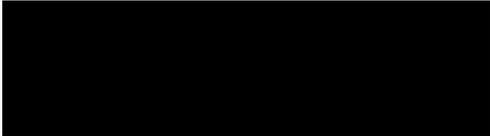
Petitioner:

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)

ON BEHALF OF PETITIONER:



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.

Σ 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 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.

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.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "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).

In this case, the petitioner seeks classification as an alien with extraordinary ability in the sciences, specifically the research of molecular carcinogenesis. At the time of filing, the petitioner was employed as a research fellow at the Laboratory of Human Carcinogenesis (LHC) within the National Cancer Institute (NCI) of the National Institutes of Health (NIH). The petitioner initially submitted supporting documents including his academic credentials and scholarship, awards, membership in two scientific associations, past research grant, patent application, peer review of scholarly manuscripts, verification of his employment, copies of his articles and conference presentations, citations to his work, and ten letters of recommendation from scientists who have collaborated or frequently consulted with the petitioner. On appeal, counsel submits a brief and additional

evidence of the publication and citation of the petitioner's work, his awards, peer review of scientific papers, conference participation, a second patent application, articles discussing one aspect of the petitioner's research, documents related to his income and role at LHC, and recommendation letters from seven additional scientists who have not worked with the petitioner. We address the evidence submitted and counsel's contentions in the following discussion of the regulatory criteria relevant to the petitioner's case. The petitioner does not claim eligibility under any criteria not addressed below.

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

The petitioner claims to meet this criterion by virtue of the following achievements: 1) a research grant from the National Natural Science Foundation of China (NSFC), 2) the selection of one of his papers to be presented at the All China Outstanding Scholarly Paper Exchange Conference on Modern Medicine, 3) the Excellent Young Scientist Scientific/Technology Paper award from the Sichuan Provincial Science and Technology Committee, 4) his German Academic Exchange Service (DAAD) Scholarship, 5) his NIH research fellowship, 6) Excellent Paper in Biomedicine Award granted by the German-Chinese Biomedical Society, and 7) a young investigator award to attend the Aspen Cancer Conference. None of these accomplishments reflect the requisite sustained acclaim.

The record shows that while employed at the West China University of Medical Sciences, the petitioner received a research grant from the NSFC in the amount of 180,000 *yuan* from December 1990 to December 1993. On appeal, the petitioner submits a printout from the Foundation's website, which states, "NSFC has established a series of systems to encourage fountainhead innovation and to fund excellent and creative researchers through fair competition on the basis of scientific and democratic principles." Shengwei Li, Professor of Stomatology at the West China University of Medical Sciences and an evaluation panel member for NSFC, attests to the strict evaluation and competitiveness of NSFC grants. Yet such funding is intrinsic to success as a research scientist and activities or accomplishments that nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine in the occupation itself. Moreover, scientific grants are awarded for proposed research, not recognized discoveries (except in so much as past findings may support future research in the same area). Thus, while highly competitive and prestigious grants may reflect a scientist's professional stature and the value of his or her research to the field, they do not constitute prizes or awards for scientific excellence. In addition, the petitioner's NSFC grant was awarded 12 years prior to the filing of this petition and does not demonstrate sustained acclaim.

The petitioner submitted copies of two certificates dated in 1992 showing that one of his papers was selected for presentation at the All China Outstanding Scholarly Paper Exchange Conference on Modern Medicine and that he received the Sichuan Province Youth Outstanding Scientific Paper award at the China Science Youth Leadership Annual Sichuan Health Conference. The record contains no evidence regarding the selection criteria or significance of the former citation and no evidence that the latter award was recognized beyond Sichuan province in China. Moreover, both honors were presented over a decade before this petition was filed and do not demonstrate the requisite sustained acclaim.

The petitioner's scholarship and fellowship also do not meet this criterion. On appeal, the petitioner submits a letter from Guosheng Hang, Professor of German at Tongji University in China and a member of the DAAD Pre-Selection Committee, who explains the strict examination and multi-level selection process for DAAD

scholarships. Professor [REDACTED] states that in 1994, the petitioner was one of only three biosciences students selected from more than 1,000 candidates in China to receive a DAAD scholarship. The record shows that the petitioner's DAAD scholarship was awarded to support his doctoral studies at the University of Heidelberg. The petitioner's scholarship attests to his outstanding academic achievement in China, but it is not equivalent to a prize or award under this criterion. Scholarships are awarded to support the academic pursuits of students, not to support the professional research of established scientists.

Although awarded to support his work as a professional researcher, the petitioner's NIH fellowship is also not equivalent to a prize or award under this criterion. Documents submitted on appeal indicate that the eligibility requirements for NIH Research Fellowships for foreign scientists include at least three years of postdoctoral experience and outstanding scholastic achievement. Yet the stated purpose of these fellowships is "to provide junior-level scientists with doctoral degrees experience in biomedical research while they provide a service relevant to the NIH's program needs." Even if highly selective and competitive, the petitioner's research fellowship constitutes employment of limited duration to provide continued postdoctoral research experience and is not equivalent to a prize or award under this criterion.

In 1997, the petitioner's paper ("Knock-In p53 Sequences With and Without Intron 4 to Determine its Function in Gene Expression Control") was one of five manuscripts out of 500 submissions that received an Excellent Investigate Paper award at the Second Germany-Chinese Biomedical Conference. A letter submitted on appeal from Hanxian An, President of the Germany-Chinese Biomedical Society, explains the "rigorous evaluation system" to select the winning manuscripts and states that this award is "considered a high level honor in the universities and institutes in biomedicine filed [sic] in the [sic] Germany and China." Even if this award was internationally recognized, it was presented to the petitioner over five years before this petition was filed and does not demonstrate sustained acclaim.

Curtis C. Harris, Chief of the LHC, the petitioner's supervisor and a co-founder of the Aspen Cancer Conference, explains in a letter submitted on appeal that the petitioner was one of 14 scientists to receive a Young Investigator Award at the 2002 Aspen Cancer Conference and that "[t]his award is nationwide [sic] for the promising young investigators with those well established in their fields. The qualified young scientists are recommended by the famous scientists in the field, and review and selection are performed by a committee." The submitted printout from the Conference's website indicates that the Aspen Cancer Conference is held annually and is attended by scientists from across the United States and other countries, but neither the printout nor Dr. Harris' letter provide any further explanation of the selection criteria, competitiveness, or national recognition of this award. Even if nationally recognized, this award does not meet this criterion because it is an honor presented only to "promising young investigators" – not established scientists – and consequently does not reflect the requisite sustained acclaim. 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 petitioner submitted evidence of his Associate Membership in the American Association for Cancer Research (AACR) and his membership in the American Association for the Advancement of Science (AAAS). The submitted printouts from the AACR website state that Associate Membership is open to "graduate students, medical students and residents, clinical fellows in related subspecialties, and postdoctoral fellows who are enrolled in educational or training programs that could lead to careers in cancer research." The submitted

printout from the AAAS website states that membership is “open to all.” The record thus does not establish that outstanding achievements are prerequisite to membership in AAAS or AACR at the level held by the petitioner. Accordingly, he 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.*

On appeal, the petitioner cites his own published articles and citations to his work as evidence of his eligibility under this criterion. Articles written by an alien are not published material about the alien. Citations of an alien's work by other scientists in their scholarly publications also do not meet this criterion because the citing articles are primarily about the authors' own research, not the work of the alien. On appeal the petitioner submits articles about areas in which he has worked, but none of the articles identify him. The record contains no articles that feature or extensively discuss the petitioner's work in a manner consistent with sustained national or international acclaim. Accordingly, he 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 submitted evidence that he reviewed one manuscript for *Oncogene* in 2000 and one manuscript for *Carcinogenesis* in 1998. The record also contains a letter dated in 1998 inviting the petitioner to review papers for the Germany-Chinese Biomedical Society's Annual Meeting of Biomedicine, but no evidence that the petitioner accepted the invitation and actually completed the requested reviews. On appeal, the petitioner submits evidence that he reviewed one manuscript for *Molecular and Cellular Biology*, but we cannot consider this evidence because it arose after the petition was filed. The petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). The petitioner's curriculum vitae states that he is a reviewer for *Oncogene*, *Carcinogenesis*, *Cancer Letter*, and *Cancer Research*, but the record contains no evidence of his work for the latter two journals. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The record thus shows that at the time of filing the petitioner had reviewed two manuscripts submitted for publication to two journals in his field. The completion of just two peer reviews over the five years between the petitioner's obtainment of his doctorate and the filing of this petition does not reflect the requisite sustained acclaim. 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 record indicates that while employed at the West China University of Medical Sciences in Chengdu, China from 1988 to 1994, the petitioner researched new artificial bone materials for use in dental medicine. In December 1990, the NSFC awarded the petitioner a three-year grant for his project entitled “Fibrin Adhesive System with Particulate Hydroxylapatite Artificial Bone Material – An Experimental Study and Clinical Application.” The petitioner's paper of the same name also received the Sichuan Province Youth Outstanding Scientific Paper award and was selected for presentation at the All China Scholarly Paper Exchange Conference on Modern Medicine in 1992. As discussed above under the first criterion, Professor [REDACTED] attests to the strict

evaluation and competitiveness of NSFC grants but the record contains no evidence regarding the selection criteria or significance of the two latter distinctions. The petitioner submitted evidence of four articles on this topic of which he is the lead author and that were published in four scientific journals between 1989 and 1993. Yet the record contains no evidence that these articles have been widely cited by other researchers in this field. Moreover, the petitioner's last documented work in this area occurred in 1993, nearly a decade before his petition was filed and does not reflect the requisite sustained acclaim.

The record shows that the petitioner left China in 1994 to pursue graduate studies in Germany. After obtaining his doctorate in 1997, the petitioner was a postdoctoral fellow at the German Cancer Research Center ("the Center"). [REDACTED] Chief of the Unit of Gene-Environment Interactions at the International Agency for Research on Cancer of the World Health Organization, explains that the petitioner collaborated with him while at the Center and "established a knock-in mouse model with the p53 gene, a most important tumor suppressor gene. This achievement provides the scientific community with an important tool for mutation research, and will lead to the development of better therapies for cancer. More importantly, Dr. [REDACTED] has received a patent of 'p53 knock-in mouse model' (Patent No. 198 01 780.4. Germany), in cooperation with my laboratory." The petitioner submitted a copy of an "Unexamined Patent Application" filed by the Center with the German Patent and Trademark Office in 1998. The petitioner is listed as a co-inventor with Dr. [REDACTED] and [REDACTED] Head of the Department of Genetic Alterations in Carcinogenesis at the Center and the petitioner's former supervisor. Yet the record contains no evidence that this patent was awarded. On appeal, counsel states that the patent was awarded prior to filing, but cites only the patent application previously submitted.

As further evidence of the impact of the petitioner's work in this area, counsel on appeal submits an article published in *Nature Cell Biology* that reports on the use of the petitioner's p53 knock-in mouse model and evidence that a commercial laboratory now sells a p53 mutant mouse strain. We cannot consider the *Nature Cell Biology* article because it was published after the petition was filed. The petitioner must establish eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Matter of Katigbak*, 14 I&N Dec. at 49. Although the submitted printout from the laboratory selling the p53 mutant mouse strain cites one of the petitioner's co-authored articles, the printout identifies the petitioner's former supervisor, Dr. Hollstein – not the petitioner himself – as the investigator who made the mutation.

In 1999 the petitioner left Germany to accept a postdoctoral position in Dr. [REDACTED] laboratory at the LHC. As explained by [REDACTED] Head of the Liver Carcinogenesis Section in the LHC and the petitioner's collaborator, the petitioner has "discovered a mechanism of an important p53 downstream target gene, Gadd45, in the regulation of cell cycle checkpoint controls. He found a small region that is necessary for Gadd45-induced cell cycle arrest, a crucial step to block tumor growth. His results provide major implications and sets [sic] up a foundation for an efficient cancer therapy." Dr. [REDACTED] further notes that the petitioner's "discovery on Gadd45 functions has provided a significant contribution to a new US patent (No. 09/534,811) on the Methods for identifying inhibitors of Gadd45." Yet the record contains no evidence of this patent or its citation to the petitioner's work.

[REDACTED] Professor of Molecular Oncology at the University of Oxford and Deputy Director of the Oxford Cancer Centre who has also collaborated with the petitioner, explains that the petitioner has also "shown that the p53 protein controls the activity of two DNA helicase enzymes that are required for general maintenance of genome stability and the suppression of cancer. As such, this highly significant and novel result provides new and exciting links between tumor suppression and control of genome stability. Given that p53 is the gene most commonly mutated in human cancers, and that a breakdown in genomic stability is a universal

feature of cancer cells, a whole new area of potential for anticancer therapy has been opened up by Dr. Yang's findings."

Lawrence A. Loeb, Professor of Pathology and Biochemistry at the University of Washington and Director of the Gottstein Memorial Cancer Research Laboratories, has also collaborated with the petitioner. Professor Loeb explains that the petitioner is working on enzymes that unwind DNA and that "[m]utations in the genes that encode these enzymes are associated with Werner and Bloom syndromes, two inherited human diseases with an unusually high incidence of cancer. Thus, understanding how these enzymes work may provide us with important clues to the cause of human cancer. I can state without reservation that Dr. Yang's contributions to these studies are essential and instrumental in achieving their success. Our laboratory has benefited enormously from Dr. Yang's contributions and scientific excellence."

The record shows that the petitioner co-authored 11 articles concerning his research at the Center and LHC that were published in *Oncogene*, the *British Journal of Cancer*, *Carcinogenesis*, the *Journal of Biological Chemistry*, *Cancer Research* and other journals between 1997 and 2002. The submitted Institute for Scientific Information (ISI) Journal Citation Reports show that these five journals are highly ranked in the fields of oncology and biochemistry and molecular biology. The submitted ISI citation lists show that, at the time of filing, nine of the petitioner's articles had been cited a combined total of 65 times by other research teams. The petitioner's co-authored article, "New Approaches to Understanding p53 Gene Tumor Mutation Spectra," published in *Mutation Research* in 1999 had been cited 21 times. In addition, the petitioner submitted copies of five abstracts, of which he is the lead author, which were presented at scientific conferences in his field between 1998 and 2002. As discussed under the first criterion, the petitioner received a Young Investigator Award at one of these conferences. Yet the record does not indicate that the petitioner's work received special recognition at any of the other four conferences.

Nearly all of the ten recommendation letters submitted with the petition and the seven letters submitted on appeal attest to the importance of the petitioner's p53 knock-in mouse model, his identification of a functional domain in the Gadd45 gene, and his discovery that p53 regulates human helicase activity. In addition to the previously quoted letters, the petitioner submitted recommendations from his supervisor at the LHC, Dr. [REDACTED] Professor of Toxicology and Chemistry at the Massachusetts Institute of Technology and a member of the National Academy of Sciences; [REDACTED] Distinguished Professor of Molecular Cellular and Developmental Biology at the University of Colorado and a member of the National Academy of Sciences; Dr. [REDACTED] of the German Cancer Research Center; Helmut Bartsch, Head of the Division of Toxicology and Cancer Risk Factors at the German Cancer Research Center; and [REDACTED] Professor of Maxillo-facial Surgery at the West China University of Medical Sciences.

On appeal, the petitioner submits additional letters from the following independent experts: [REDACTED] Professor of Pharmacology, Director of the [REDACTED] Laboratory for Cancer Research at Rutgers University and a member of the National Academy of Sciences; [REDACTED] Assistant Professor of Pharmacology, Cancer Biology and Radiation Oncology at Duke University Medical Center; Thanos Halazonetis, Principal Investigator and Professor within the Molecular and Cellular Oncogenesis Program at the Wistar Institute in Philadelphia; Hitoshi Nakagama, Principal Investigator and Chief of the Biochemistry Division of the National Cancer Research Institute in Japan; [REDACTED] Professor at the Institute of Veterinary Biochemistry and Molecular Biology within the University of Zurich; [REDACTED], Research Professor of the Finnish Academy of Sciences of the University of Helsinki; and Fabrizio Palitti, Principal

Investigator and Head of the *Laboratorio di Citogenetica Molecolare e Mutagenesi* at the *Università degli Studi della Tuscia* in Italy.

We have noted the qualifications and assessments of these scientists who clearly attest to the importance of the petitioner's work. While letters such as these 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 field beyond the limited number of individuals with whom he has worked directly. Even when written by independent experts, 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 achieved sustained national or international acclaim. Accordingly, we reviewed the letters as they related to other evidence of the petitioner's contributions.

On appeal, counsel contends that because the petitioner works in basic—as opposed to applied—science, “the national or international acclaim of [his] achievement is limited to a small scientific community.” We understand that the significance of the petitioner's research may only be fully appreciated by a limited number of scientists with the same or similar specialties. However, counsel does not claim, and the record does not demonstrate, that the petitioner's research is so esoteric that it cannot be fully documented through publications, conference presentations, citations and other objective means by which researchers generally communicate their findings to other scientists. In this case, the importance of the petitioner's work as discussed in the recommendation letters is not fully corroborated by evidence of the petitioner's publications, citations, awards and other documentation of his work. In sum, the record does not establish that the petitioner's research findings have made original, major contributions to his field in a manner consistent with the requisite sustained acclaim. Accordingly, he 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.*

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 field. In this case, the record shows that at the time of filing, the petitioner had co-authored 16 articles published in scientific journals between 1989 and 2002. The petitioner is the lead author of ten of these articles. The ISI citation lists submitted with the petition show that at the time of filing, nine of the petitioner's articles had been cited a combined total of 65 times in the publications of other research teams. Four articles of which the petitioner is the lead author had been cited a combined total of 20 times. On appeal, the petitioner submits evidence of additional publications and citations of his work that we cannot consider because they occurred after the petition was filed. Again, the petitioner must establish eligibility at the time of filing. *See* 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. On appeal, the petitioner also submits ISI Journal Citation Reports indicating that, at the time of filing, his work had been published in the highest and three highly ranked journals in the field of oncology and in the highest ranked journal of biochemistry and molecular biology.

The record indicates that the petitioner has successfully published his research in highly ranked journals in his field and that his articles have been cited by other research teams. However, the record shows that, at the time of filing, nearly half of the petitioner's articles had not been cited and that other researchers had only minimally cited eight of his other articles. Less than half of the petitioner's articles of which he is the lead author had been

cited (and only minimally so). In addition, the petitioner's most highly cited article was published in 1999, over three years before this petition was filed. While we understand that it takes time for the impact of a scientific article to be reflected by citation in the publications of other researchers, we must evaluate an alien's eligibility at the time of filing. See 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. at 49. The petitioner's publication and citation record at the time of filing does not demonstrate the requisite sustained acclaim. Accordingly, he does not meet this criterion.

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

The petitioner initially claimed to meet this criterion through his work at West China University of Medical Sciences, the German Cancer Research Center, and the LHC. On appeal, the petitioner only contends that he plays a critical role in Dr. Harris' laboratory at the LHC. Dr. Harris concludes his July 12, 2002 letter by stating, "the continuing participation of Dr. Yang in these extremely important research projects is essential to their successful completion. . . . It would be difficult, if not impossible, to replace Dr. Yang, and his inability to continue playing a key role on these projects would be absolutely devastating." While the petitioner may perform a leading or critical role in his own laboratory, Dr. Harris does not state, and the record contains no evidence that, the petitioner plays a leading or critical role for the LHC, NCI or NIH as a whole. Accordingly, he does not meet this criterion.

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

The petitioner did not initially claim eligibility under this criterion. On appeal, he claims to satisfy this category by virtue of his salary as a NIH research fellow. The record shows that, at the time of filing, the petitioner's salary was \$48,535. While the article published in *Science* and submitted on appeal shows that the average salary of postdoctoral researchers in 2001 ranged between \$32,000 and \$37,000, it also reports that the median gross salaries for scientists in 2001 was \$80,000 in academia and \$96,000 in the private sector. The relevant comparison in this case is not simply the income of other postdoctoral researchers, but the salaries of all research scientists in the petitioner's field. The petitioner submitted no evidence that his salary at the time of filing was higher than other scientists in his field, including professors and principal investigators, or comparable to researchers at the very top of his field. Accordingly, he does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), 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 record in this case does not establish that the petitioner had achieved sustained national or international acclaim as a scientist placing him at the very top of his field at the time of filing. He is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and his 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. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.