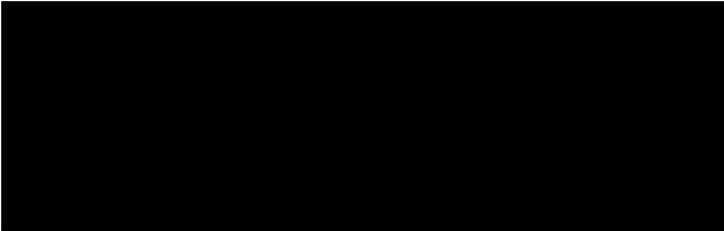




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
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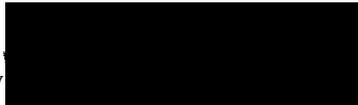
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LIN 03 171 51671

Office: NEBRASKA SERVICE CENTER

Date: OCT 31 2005

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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

PUBLIC OFFICE

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska 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 as a reproductive physiologist, embryologist and andrologist. The petitioner initially submitted supporting evidence including his academic and professional credentials, copies of his scholarly publications and conference abstracts, requests for copies of one of his articles, documentation of his membership in professional associations, an excerpt from a book which cited his work, and 12 letters of recommendation from scientists who have supervised, taught or closely interacted with the petitioner. In response to the director's Request for Evidence (RFE), the petitioner submitted his own 12-page response, additional information regarding professional associations of which he is a member, copies of five additional published articles co-authored by

the petitioner, a citation list for ten of his publications, additional requests for reprints of one of the petitioner's articles, two letters of recommendation from independent experts in his field, and documentation of accomplishments made after the petition was filed. On appeal, the petitioner submits an 11-page letter, copies of ten published articles that cite his work, and a support letter from his current employer. The evidence submitted on appeal does not overcome the deficiencies of the petition and the appeal will be dismissed. We address the petitioner's contentions and the evidence submitted in the following discussion of the regulatory criteria relevant to the petitioner's case. The petitioner does not claim eligibility under any criteria not discussed 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 through his receipt of the following honors: 1) award for best graduate student oral presentation at the 1998 Society for Theriogenology Annual Conference, 2) best poster prize at the Scholastic Achievement Celebration at the College of Veterinary Medicine at the University of Minnesota in 1999, 3) a scholarship from the Japanese Society for Promotion of Sciences (JSPS) to participate in the 2001 Asian Science Seminar on Animal Cell Technology (ASSAXR2001) in Japan, 4) a Burroughs Wellcome Fund (BWF) and National Institute for Child Health and Human Development (NICHD) fellowship to attend the "Frontiers in Reproduction" training course at the Marine Biological Laboratories in 2001, and 5) an International Cell Research Organization (ICRO) – United Nations Educational, Scientific and Cultural Organization (UNESCO) Fellowship to attend a training course at the University of Nagoya in Japan in 2001.

As noted by the director in both the RFE and the decision, scholarships, fellowships and other honors restricted to students do not meet this criterion. While such honors may reflect well upon an alien's academic achievement and promise, they do not satisfy this criterion because only students – not established scientists – are eligible for and receive such distinctions. The record indicates that the petitioner's first two honors resulted from competition with other graduate students. A letter from Charles F. Franz, Executive Director of the Society for Theriogenology, confirms that the petitioner's work was named "best oral presentation" as part of the "graduate student research abstract presentations" program at the 1998 Society for Theriogenology Annual Conference. An excerpt from the November 1999 edition of *CVM Rounds* states, "Graduate students displayed sixteen posters and discussed their research during the Scholastic Achievement Celebration" and lists the petitioner as one of three "best poster" prizewinners. Neither document shows that these honors were open to anyone other than graduate students or that the honors were nationally or internationally recognized in the field. In fact, the petitioner's best poster prize was limited to a single academic institution. In his RFE response, the petitioner contends that both competitions were open to national and international students. Yet the varied origins of student competitors in and of themselves do not attribute national or international recognition to a competition.

The record contains seminar and course completion certificates evidencing the petitioner's participation in the latter three training courses listed above, but the petitioner submitted no primary evidence of his purported receipt of fellowships from BWF, NICHD, ICRO or UNESCO. Five letters provide secondary evidence of the petitioner's receipt of a BWF and NICHD fellowship to attend the "Frontiers in Reproduction" course, but the record contains no evidence regarding the petitioner's purported receipt of an ICRO-UNESCO fellowship. The petitioner's completion certificate simply identifies the class as the "2001 ICRO-UNESCO Training Course." Even if the petitioner's scholarship and fellowships were all sufficiently documented, they would not meet this criterion because the record shows that they were awarded to support further training in the petitioner's field.

Professor and Vice Chair of the Department of Obstetrics, Gynecology and Reproductive Sciences at the University of Pittsburgh School of Medicine; Professor of Genetics at Case Western Reserve University; Professor of Biomedical Sciences at the Ontario Veterinary College of the University of Guelph, Canada; and Yasuo Kitagawa, Professor of Animal Cell Technology at Nagoya University in Japan all attest to the competitiveness of the selection process and affirm the petitioner's receipt of fellowships to attend the "Frontiers in Reproduction" course and AASACT2001, yet their letters also indicate that the financial aid was awarded for training and educational purposes. Professor Croy explains that the goal of the "Frontiers in Reproduction" program at MBL "is to take the very best young faculty at the beginning of their research careers and provided [sic] enriched broad training in reproductive science. These students are targeted as the future leaders of this discipline." Professor Kitagawa explains that ASSACT2001 invited leading scientists "to educate young scientists invited from Asian countries" and that the petitioner was one of 26 participants invited to attend ASSACT2001 from among 80 applicants. These letters confirm that the petitioner's scholarship and fellowship reflect his achievements as a scientist at an early stage of his career, but they do not show that the petitioner competed with scientists well established in his field. Rather, the evidence indicates that the teachers, not students, at these trainings were scientists at the top of the petitioner's field. Indeed, experienced experts have no need to compete for scholarships and fellowships to attend such trainings.

On appeal, the petitioner claims, "The reality is that there are no defined awards in different scientific discipline and . . . scientists in my discipline are recognized as 'outstanding' by receipt of presentation awards, fellowship awards, grants, prizes, etc. such as the ones I have received." The petitioner submits no evidence to support this claim and 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)). Moreover, the record indicates that several scientific awards do exist in the petitioner's field. Three of the scientists who wrote recommendation letters for the petitioner state their receipt of awards in their field on their curriculum vitae. Although the evidence submitted under this criterion attests to the petitioner's academic accomplishments and research potential, the record does not show that he received any nationally or internationally recognized prizes or awards for scientific excellence. Accordingly, he does not meet this criterion.

On appeal, the petitioner submits documentation that he was selected to receive an "In-Training Award" at the 2004 ASRM Annual Meeting. 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).

(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 record contains evidence of the petitioner's membership in the Pakistan Veterinary Medical Association, Society for the Study of Reproduction (SSR), the American Society for Reproductive Medicine (ASRM), and the Society for Theriogenology (SFT). In his RFE response, the petitioner submitted documentation of his membership in the American Society of Andrology (ASA), 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. *Id.* In addition, the record contains no documentation concerning the Pakistan Veterinary Medical Association and on appeal, the

petitioner states that he “intentionally did not provide information on this because it is a regional association, which is specific to only one country.” Accordingly, we will not consider this membership, but we note that associations need not be international to satisfy this criterion. Membership in a national association may meet this criterion if the association requires outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

On appeal, the petitioner claims that he meets this criterion through his SSR, ASRM and SFT memberships because these societies “are well known and have members all over the world. These are purely professional and scientific societies who have members from Noble laureates to ordinary scientists.” The petitioner contends that the director “spent more time in denying the importance of these scientific societies rather than understanding the nature and quality of their mission.” We do not read the director’s decision as impugning the importance of these associations. Rather, the director evaluated the relevant evidence and found that outstanding achievements were not prerequisite to membership in any of the associations. As the director noted, the issue is not the importance or professional standing of these associations, but whether or not they require outstanding achievements of their members. As discussed below, we affirm the director’s determination.

The petitioner is a Regular Member of SSR. The submitted printout from SSR’s website states that nominees for regular membership must have a doctorate or its equivalent in scientific accomplishments and have published at least three articles in the area of reproduction as the first or last author in the last six years or five articles with at least one as first or last author. Frequent publication is inherent to a research scientist’s occupation. Hence, the SSR regular membership criteria describe common accomplishments, not outstanding achievements, among research scientists active in their field.

The submitted printout from ASRM’s website describes the society’s membership as including “approximately 9,000 gynecologists, obstetricians, urologists, reproductive endocrinologists, research scientists, nurse practitioners, social workers, laboratory technologists, and other health care professionals from every state in the union and from more than 100 countries.” The printout states that active members “include physicians, scientists, and other professionals interested in reproductive medicine. These individuals must maintain high ethical standards and must adhere to the objectives and principles of the Society.” This evidence does not demonstrate that outstanding achievements are prerequisite to ASRM membership.

The submitted printout from the SFT’s website lists five levels of membership, but the record does not state the petitioner’s membership level. In his RFE response, the petitioner stated that he is an active member of SFT, but the letter from the SFT Executive Director submitted with the petition does not state the level of the petitioner’s membership. The printout states that to be eligible for SFT active membership, an applicant must be a graduate of a veterinary college approved by the American Veterinary Medical Association (AVMA), be a member of the AVMA or the veterinary association of the state where the applicant resides, or be licensed to practice veterinary medicine or surgery in the applicant’s state, province or country of residence. Such professional qualifications are not outstanding achievements. Although the printout states that associate membership requires “exceptional contribution to the field” and honorary membership requires “noteworthy and outstanding contributions to the field,” the record contains no evidence that the petitioner is an associate or honorary SFT member.

On appeal, the petitioner states, “To the best of my knowledge no such society exists in the field of reproductive biology, physiology, andrology or embryology, which demands outstanding achievement of their members, as judged by a recognized national or international experts [sic].” The cited criteria for SFT associate and

honorary membership suggest otherwise. Yet even if the petitioner's statement were true, it would not support his eligibility under this criterion. Rather, it would indicate that this criterion does not apply to his profession and he would be better served by not claiming eligibility under this category. The evidence submitted does not demonstrate that outstanding achievements are prerequisite to membership in SSR, ASRM, or SFT 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.

In his RFE response, the petitioner claimed to meet this criterion by virtue of the citation of his work in a book chapter. Mere citation or brief reference to an alien's work in the publications of other scientists do not meet this criterion because the publications are primarily about the authors' own work, not that of the alien. On appeal, the petitioner states, "I don't have and don't claim any published material about me in professional or major trade publications. In fact the . . . citations in the book by Dr. [REDACTED] were wrongly quoted to justify criterion #3. They should have been part of the discussion for criterion number # 5 or 6." Accordingly, we address this evidence below under the fifth and six criteria.

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

On appeal, the petitioner claims to meet this criterion through his "research on the use of bovine fetal oocytes in an in vitro fertilization system," his studies of "controlled breeding in water buffalo and research on other aspects of reproduction." As evidence of his eligibility under this criterion, the petitioner cites several of the 15 recommendation letters he submitted initially, in response to the RFE and 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 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 review the letters as they relate to other evidence of the petitioner's contributions.

[REDACTED] Professor of Animal Science at the University of Minnesota and the petitioner's doctoral advisor, explains that the petitioner's dissertation

was unique in that it was the first study ever that dealt with maturation and fertilization of oocytes from both fetal and adult bovine ovaries. The fetal ovary contains about 5 million potential oocytes in an immature state and about 96% of them die before birth. [The petitioner] found a way to save some of them, mature them, and get them fertilized! This revolutionary work has practically significance [sic] for US animal agriculture, animal biotechnology, and for the preservation of endangered animals and valuable genetic stocks.

The significance of the petitioner's work in this area is affirmed by [REDACTED] Professor and Head of the Division of Theriogenology at the University of Minnesota who served on the petitioner's graduate committee, and by [REDACTED] Associate Professor and Director of the Andrology and In Vitro Fertilization (IVF)

Laboratories at the University of Utah School of Medicine who supervised the petitioner as a postdoctoral fellow in his laboratory. Professor [REDACTED] explains that “[i]n the United States, the implications of [the petitioner’s] work on in vitro maturation and fertilization of cow oocytes affects the cattle industry, potentially resulting in savings of millions of dollars to animal breeders and improving food production.” [REDACTED]

[REDACTED] Professor of Neurobiology and Physiology at Northwestern University who met the petitioner at the “Frontiers in Reproduction” training course, describes the petitioner’s doctoral research as “pathbreaking in that field.” [REDACTED] Professor of Molecular Biology in the Department of Animal Science at the

University of Minnesota who knew the petitioner as a graduate student, also affirms that the petitioner’s work “was the first of its kind . . . [and] had direct impact on cattle breeding programs serving to reduce generation intervals as well as having a profound impact on endangered species.”

[REDACTED] Professor [REDACTED] of the Ontario Veterinary College at the University of Guelph in Canada, explains that the petitioner’s doctoral research was based on a paper that he and his colleagues published in 1989 entitled “Potential genetic improvement of cattle by fertilization of fetal oocytes *in vitro*.” Professor [REDACTED] explains that other researchers supported the genetic validity of this approach, “but it remained for [the petitioner] to show, in his doctoral studies, that the approach is also biologically feasible (though still in need of improvement).” Professor [REDACTED] states that the petitioner presented this work at four professional conferences and that his research “became very significant well before the end of April 2003,” when the petition was filed. Professor [REDACTED] further explains that the petitioner “can be counted as ‘set apart’ from his peers as one of the first scientists to make real progress towards the goal of shortening the generation interval in cattle through the use of fetal oocytes.” Professor [REDACTED] notes that researchers in Japan have used this approach to produce mice from in vitro fertilization of fetal germ cells and they conclude that the approach might eventually help women undergoing chemotherapy or radiotherapy to later conceive by prior removal of an ovary. Yet the record contains no evidence that the Japanese researchers cited the petitioner’s work or otherwise relied on his findings.

Professor [REDACTED] affirms that the petitioner was invited to present a paper on his doctoral work at the ASSACT2001 and that “his outstanding work impressed the audience.” The record also shows that the petitioner presented his work at four other scientific conferences between 1999 and 2000. At the time of filing, the petitioner was the lead author of one article concerning his doctoral work that was published in *Animal Reproduction Science* in 2003. The petitioner submitted copies of numerous reprint requests for this article from scientists in the United States and abroad. The evidence thus indicates that seven scientists highly value the petitioner’s doctoral work and that his publication interested several other scientists, but the record does not establish that the petitioner’s doctoral work had been recognized as a major contribution to his field at the time of filing in a manner consistent with the requisite sustained acclaim.

The record shows that after receiving his doctorate the petitioner returned to his native Pakistan where he was an Associate Professor of Animal Reproduction at the University of Agriculture in Faisalabad and performed research on the breeding of cattle and water buffalos. Professor [REDACTED] states that the petitioner has written “several publications advancing our knowledge regarding oocyte maturation in both the water buffalo and in cows. This area of research has profound economic implications. Improved oocyte maturation techniques in the Water Buffalo has [sic] the capability of improving the cattle industry in third world countries such as Pakistan.” None of the other recommendation letters discuss the petitioner’s work in this area.

The record shows that the petitioner presented his work in this area at four national and international conferences between 1990 and 1995. The petitioner also submitted copies of 20 articles written or co-authored

by him regarding his work in this area and published in scientific journals between 1989 and 2000. Two of these articles are briefly cited and discussed in the book "Controlled Reproduction in Cattle and Buffaloes," published in 1996. With his RFE response, the petitioner submitted a Web of Science printout showing that ten of these articles have been cited a combined total of 14 times. However, the printout lists the citing articles for only one of the petitioner's publications and we cannot determine whether any of the listed citations to the petitioner's other publications include self-citations.

On appeal, the petitioner submits copies of ten of these citing articles and explains, "Many of my papers have been cited/quoted in research papers and in conference proceedings in buffalo keeping countries. This is hard for me to arrange all of them [sic] because many of the buffalo keeping countries are in [the] third world and their journals are sometimes not cited in [the] ISI index." While we appreciate the difficulty the petitioner may face in documenting the impact of his publications on cattle and water buffalo breeding, we must evaluate the case based on the evidence submitted. Although it may be difficult to meet, the burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i).

The record does not demonstrate that the petitioner's work in this area made original, major contributions to the field.

In 2002, the record shows that the petitioner returned to the United States to work as a postdoctoral research fellow at the Andrology and IVF Laboratories of the University of Utah Health Sciences Center. Professor [REDACTED] explains that one purpose of the petitioner's fellowship "is to receive training in human IVF" and that he is also involved in research projects "evaluating the role of abnormal chromatin structure in the fertilization process" and "evaluating nuclear transfer techniques, and cryopreservation of germinal vesicles." Professor [REDACTED] believes that the former research "will lead to important breakthroughs in the diagnosis of infertility, and eventually in the treatment of such diverse fertility problems as recurrent pregnancy loss and fertilization failure" and that the latter project will "potentially [be] a groundbreaking study." Professor [REDACTED] states that "[t]hese topics are indeed at the frontier of human reproduction research, and reflect [the petitioner's] remarkable ability to identify the significant questions to be addressed in reproductive biology." [REDACTED] Professor and Director of Reproductive Endocrinology and Infertility at the University of Utah Health Sciences Center, further affirms that the petitioner's research "will help preserve the fertility and germ cell lines of females undergoing chemo or radiation therapy [and] . . . endangered species. Furthermore, ongoing studies on the nuclear transfer between oocytes from young to older animals will help us to understand age related aneuploidies." Professor [REDACTED] explains that "[t]he issue of aneuploidy in human health is a major concern. [The petitioner's] research in this area should provide exciting new insights on the mechanisms relating to this problem associated with Down's syndrome." The significance of the petitioner's research in these areas is also affirmed by [REDACTED] Professor of Reproduction at the College of Veterinary Medicine at the University of Florida who was a member of the petitioner's dissertation committee, and [REDACTED] Professor in the Departments of Obstetrics and Gynecology and Physiology and Biophysics at the University of Illinois College of Medicine who met the petitioner at the "Frontiers in Reproduction" training course. While these letters attest to the significance and potential impact of the petitioner's research at the University of Utah, the record contains no evidence that the petitioner's work had been published or otherwise presented to the field at the time of filing.

In review, the record indicates that the authors of the petitioner's recommendation letters highly value his research and that he has published his work in scientific journals and presented his research at professional meetings. Yet the record does not fully corroborate the significance of the petitioner's work as assessed by the cited support letters. The evidence submitted does not establish that the petitioner has made original contributions of major significance 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 researchers or other proof that the alien's publications have had a significant impact in his or her field.

In this case, the petitioner submitted copies of 20 articles authored or co-authored by him and published in scientific journals between 1989 and 2003. With his RFE response the petitioner submitted copies of four additional articles which he claims "were published or were available online as of the filing date of [the] petition." The submitted copies do not corroborate this statement. Simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Soffici*, 22 I&N Dec. at 165. We cannot consider the additional articles because the record indicates that they were published 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), *Katigbak*, 14 I&N Dec. 45 at 49.

As mentioned above under the fifth criterion, the record includes a Web of Science printout showing that ten of the petitioner's articles have been cited a combined total of 14 times and an excerpt from a book that cites and briefly discusses two of the petitioner's articles. The petitioner did not provide a complete list of the citing articles from which we could determine whether or not the listed citations include self-citations by the petitioner in his own subsequent publications. Self-citations, while expected, do not demonstrate sustained acclaim. On appeal, the petitioner submits copies of ten articles that cite seven of his publications. The petitioner's two most highly cited articles have been cited only three times each. As was noted under the fifth criterion, we understand that the petitioner may not have been able to document all the citations to his work in Pakistan and other countries that raise water buffalos. We are also mindful of the fact that it takes time for the significance of an article to be reflected by citations in the publications of other researchers. Yet we are bound to evaluate the petitioner's eligibility at the time of filing on the basis of the evidence presented. *See* 8 C.F.R. § 103.2(b)(12), *Katigbak*, 14 I&N Dec. 45 at 49. *See also* 8 C.F.R. § 103.2(b)(16)(ii). The record documents minimal citation to less than half of the petitioner's published articles and does not indicate that his publications have otherwise had a significant impact in his field. The petitioner's publication and citation record at the time of filing thus does not reflect the requisite sustained acclaim. 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.