

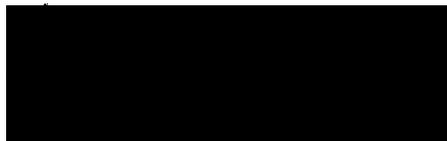
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U.S. Department of Homeland Security
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U.S. Citizenship
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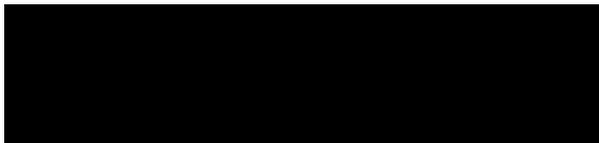
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FILE: EAC 03 200 52242 Office: VERMONT SERVICE CENTER Date: SEP 07 2005

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:



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.

Maui Johnson

g 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 the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has earned sustained national or international acclaim at the very top level.

This petition, filed on June 25, 2003, seeks to classify the petitioner as an alien with extraordinary ability as a physician specializing in research and clinical studies in Endodontics.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence pertaining to the following criteria.

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

The petitioner submitted evidence of his receipt of the following:

- 1) "The Best Doctor of 1991" award for "Excellence in Clinical Performance" from the Veterans Affairs Commission, Executive [REDACTED] R.O.C.
- 2) "Certificate of Achievement" from the "ACADEMY OF ENDODONTOLOGY [sic] R.O.C." for completing "an active member application" and demonstrating "proficiency in the theory and practice of Endodontics" (1994)
- 3) Citation from the Taiwan Dental Association for ten years of distinguished social service (1994)
- 4) "The Best Doctor of Year 1996" award from the Taichung City Health Bureau
- 5) Letter of Thanks from the Tainan Dental Association (1998)
- 6) "Service medal of 3rd grade" for achievement and ten years of continuous service at the Taichung Veterans General Hospital (2000)
- 7) "The Best Doctor of Year 2001" award for "Excellence in Clinical Instruction" from the Veterans Affairs Commission, Executive [REDACTED] R.O.C.

The petitioner also submitted a March 4, 2003 letter from the Veterans Affairs Commission, Executive [REDACTED] R.O.C., which discusses its Best Doctor of the Year award. The letter states: "Nominees of this award are generated through commendations of executives of each department. Then the Executive Committee of Medical Education in each hospital elects ten members to form an electing committee for evaluating nominees and determining awardees." According to this information, it is apparent that items 1 and 7 above reflect departmental or institutional recognition rather than national recognition.

In regard to item 2, there is no evidence showing that this certificate is a nationally recognized award for excellence, rather than simply an acknowledgment of the petitioner's completion of basic certification requirements or training.

In regard to item 3, there is no evidence showing that this citation constitutes a top honor for excellence in his field, rather than simply an acknowledgment of the petitioner's "ten years of distinguished social service." The plain wording of this criterion requires the petitioner to show that his citation is nationally recognized. The record, however, includes no such evidence.

In regard to items 4, 5, and 6, it is apparent that these awards are local, regional, or institutional in scope rather than national in scope.

Pursuant to the statute, the petitioner must provide sufficient evidence to establish that the awards presented under this criterion enjoy significant national or international stature. In this case, the petitioner has not shown that his awards were widely recognized beyond the organization that presented them.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. In addition, it is clear from the regulatory language that members must be selected at the national or international level, rather than the local or regional level. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted evidence of his membership in the Association for Dental Sciences, Taichung Dental Association, Academy of Endodontology, American Association of Endodontists, and the Asia-Pacific Endodontic Confederation. The record, however, does not include the membership bylaws or official admission requirements for these organizations. There is no indication that admission to membership in these organizations required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership.

Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other *major* media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national or international level from a local publication or from a publication in a language that most of the population cannot comprehend. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.¹

The petitioner submitted evidence of three Taiwanese newspaper articles, one of which appeared in the *Liberty Times*. None of articles were accompanied by proper English language translations. Pursuant to 8 C.F.R. § 103.2(b)(3), however, any document containing foreign language submitted to Citizenship and Immigration Services (CIS) shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The three articles submitted by the petitioner do not meet these requirements. Without a complete translation of the articles, we cannot conclude that the petitioner was the primary subject of the material or that he was featured because of his significant achievements. Furthermore, the petitioner has not submitted quantitative data regarding the volume of distribution of the newspapers. Without evidence of their substantial national readership, we cannot conclude that they qualify as "major media."

¹ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual's reputation outside of that county.

Finally, the evidence submitted by the petitioner does not identify “the title, date, and author of the material” as required by this criterion. In conclusion, the documentation provided by the petitioner fails to demonstrate that he has been the subject of sustained major media attention.

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

The petitioner submitted evidence of his research projects, including six research reports that he prepared from 1991 through 1996. The record, however, contains no evidence showing that any of the petitioner’s research findings are viewed throughout his field as a contribution of major significance.

The petitioner submitted two letters of support from professors who chair the dentistry departments at veterans hospitals where he has worked. These letters indicate that the petitioner has performed admirably throughout his career and published his research, but they offer no information regarding how the petitioner’s work has significantly impacted the dentistry or endodontics fields. The petitioner’s authorship of published papers may demonstrate that his research efforts yielded some useful and valid results; however, it is apparent that any article, in order to be accepted in for publication, must offer new and useful information to the pool of knowledge. It does not follow that every individual whose scholarly research is accepted for publication has made a major contribution to his field. We will further address the petitioner’s published works under a separate criterion.

With regard to the personal recommendation of individuals from hospitals where the petitioner has worked, the source of the recommendations is a highly relevant consideration. These letters are not first-hand evidence that the petitioner has earned sustained acclaim outside of his affiliated institutions. If the petitioner’s reputation is limited to the hospitals where he has worked, then he has not achieved national or international acclaim regardless of the expertise of his witnesses. An individual with sustained national or international acclaim should be able to provide ample unsolicited materials reflecting that acclaim. Without extensive documentation showing that the petitioner’s work has been unusually influential or highly acclaimed throughout the greater field, we cannot conclude that his work rises to the level of a contribution of *major* significance.

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

The petitioner submitted evidence of his authorship of papers published in journals such as *Clinical Dentistry* and *Journal of Dental Science*. We do not find, however, that publication of scholarly papers is presumptive evidence of sustained national or international acclaim; we must also consider the greater field’s reaction to those papers. When judging the influence and impact that the petitioner’s work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. If a given article in a prestigious journal (such as the *Proceedings of the National Academy of Sciences of the U.S.A.*) attracts the attention of other researchers, those researchers will cite the source article in their own published work, in much the same way that the petitioner himself has cited sources in his own articles. Numerous independent citations would provide firm evidence that other researchers have been influenced by the petitioner’s work and are familiar with it. If, on the other hand, there are few or no citations of an alien’s work, suggesting that

that work has gone largely unnoticed by the greater field, then it is reasonable to conclude that the alien's work is not nationally or internationally acclaimed. In the present case, there is no evidence showing that the petitioner's published papers are widely cited or that those papers are acclaimed outside of his circle of acquaintances.

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

On appeal, counsel argues that the petitioner's conference presentations satisfy this criterion. This particular criterion is more appropriate for the visual arts (such as sculpting and painting) rather than scientific or medical research. In the fields of science and medicine, acclaim is generally not established by the mere act of presenting one's work at a conference.

In regard to the petitioner's conference presentations, we note that the record contains no documentation demonstrating that the presentation of one's work is unusual in the petitioner's field or that the invitation to present at conferences where the petitioner spoke was a privilege extended to only a few top researchers. Participation in scientific conferences and symposia of the petitioner's kind is routine and expected in the medical research community. Many professional fields regularly hold conferences and symposiums to present new work, discuss new findings, and to network with other professionals. These conferences are promoted and sponsored by professional associations, businesses, educational institutions, and government agencies. Participation in such events, however, does not elevate the petitioner above almost all others in his field at the national or international level. The record contains no evidence showing that the petitioner's conference presentations commanded an unusual level of attention in comparison to those of other conference participants or that he has served as a keynote speaker at a national or international scientific conference.

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 submitted evidence showing that from January 1, 2001, to December 31, 2001, his gross earnings were \$4,415,287 TWD (Taiwan New Dollars). The petitioner also submitted average monthly salary statistics for "Medical & Health Services" professionals in Taiwan.

The petitioner's reliance on "average" salary statistics for "Medical & Health Services" professionals as an appropriate basis for comparison is flawed for two reasons. First, the petitioner must submit evidence showing that his salary is significantly high in relation to that of other endodontists (the petitioner's evidence includes no listing of the specific occupations under the broad category of "Medical & Health Services" professionals). Second, the petitioner's evidence must demonstrate that his salary places him at the very top of his field rather than above average in his field.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States. The petitioner in this case has failed to demonstrate that he meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.