



U.S. Citizenship
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FILE:

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Office: NEBRASKA SERVICE CENTER

Date: FEB 29 2008

EAC 06 012 50196

IN RE:

Petitioner:

[REDACTED]

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:

[REDACTED]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal.¹ The appeal will be dismissed.

The petitioner seeks classification as an “alien of extraordinary ability” in the sciences, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). 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.

On appeal, counsel submits a brief. For the reasons discussed below, the petitioner has not overcome the director’s bases for denial. As discussed at the end of this decision, our conclusions based on the evidence as it relates to the regulatory criteria are consistent with an analysis of the evidence in the aggregate.

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

¹ Counsel requests that the appeal “be granted” or “in the alternative, that this matter be treated as a Motion to Reopen and that said Motion [be] granted.” The regulation at 8 C.F.R. § 103.3(a)(2)(iii) allows the director to treat an appeal as a motion for the purpose of taking favorable action *prior* to forwarding the appeal to this office. Counsel provides no authority that would allow the director to consider an appeal as a motion after the AAO has already dismissed the appeal on the merits. The AAO’s authority over the service centers is comparable to the relationship between a court of appeals and a district court. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 at *3 (E.D. La.), *aff’d*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 534 U.S. 819 (2001). The director did not take favorable action pursuant to 8 C.F.R. § 103.3(a)(2)(iii). Rather, the director forwarded the appeal to the AAO. As we are upholding the director’s decision on the merits, there is no longer any legal basis for the director to consider the appeal as a motion.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (Nov. 29, 1991). As used in this section, the term “extraordinary ability” means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a postdoctoral associate. While the statute and pertinent regulations do not specifically preclude someone early in his post-academic career from qualifying for this exclusive classification, a petitioner in an entry-level position bears a heavy burden. We will not narrow the petitioner’s field to those at his level of employment. Rather, the petitioner must demonstrate that he is within the small percentage at the top of his field, including the most renowned and experienced members of his field.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien’s receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence that, he claims, meets the following criteria.²

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

In 2000, the petitioner received a Science and Technology Agency (STA) Fellowship from the Japan International Science and Technology Exchange Center (JISTEC). This fellowship funded his research at the National Institute of Animal Health in Japan for two years. The director request additional evidence relating to this criterion, stating that institutional fellowships are insufficient. In response to the director’s request for additional evidence, the petitioner submitted materials about the fellowship reflecting that the STA is a Japanese government agency and that the fellowship was established in 1988 “to offer opportunities for excellent young foreign researchers.” The qualifications for the fellowship indicate that a fellow must possess a doctorate, be no older than 35 years old or have received his Ph.D. in the last six years, be in good health and have the necessary language ability to pursue research activities in Japan. The director did not specifically address this criterion in the final decision, although the director did conclude that the petitioner does not meet any of the regulatory criteria.

² The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

Counsel reiterates on appeal that the petitioner received the STA fellowship. Counsel notes that an employee of the Oak Ridge National Laboratory also received an STA fellowship.

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires the receipt of a prize or award for excellence. The phrase “prize or award” is not open to wide interpretation. Rather, a prize or award is principally designed to recognize past achievement and is not generally contingent on future employment commitments. A fellowship is not an award or prize for excellence. The stipend that supports the research is contingent on participating in the fellowship program and conducting future research after selection for the fellowship. The record lacks evidence that the STA fellowship is designed for principal investigators rather than to facilitate training for recent graduates under the guidance of a mentor at a Japanese institution. Notably, the petitioner’s current mentor, [REDACTED] asserts that the fellowship allowed the petitioner “the opportunity to train in Japan.” Moreover, a fellowship limited to young researchers or those who have recently obtained a Ph.D. is not persuasive evidence that the recipient is one of the small percentage at the top of his field. As stated above, we will not narrow the petitioner’s field to postdoctoral associates or recent graduates. Significantly, the issue is not that the petitioner was a recent graduate when he received the fellowship, but that the fellowship itself is limited to young or newly graduated researchers. Without evidence that the most renowned and experienced members of the field aspire to win STA fellowships, we cannot conclude that the fellowship can serve to meet this criterion.

We acknowledge that, in certain cases, the nature of an employment position, while not a prize or award, can be indicative of the required sustained national or international acclaim. Such a position, however, would have to be a leading or critical role for an organization or establishment with a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(ix). Counsel has also asserted that, as an STA fellow, the petitioner performed a leading or critical role for his host institution. That claim will be considered below under the appropriate criterion.

The record also contains evidence of a travel award. The petitioner has not demonstrated the significance of a travel award, which appears designed to subsidize the travel of a presenter to the conference where he will be presenting promising work that has yet to be widely disseminated in the field rather than to recognize past achievement.

In light of the above, the petitioner has not established that he meets this criterion.

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 initially submitted evidence of his membership in the American Society of Pharmacognosy, the International Society for Heart Research (ISHR) and the American Heart Association. In accordance with the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii), the

director requested evidence of the membership requirements for the associations of which the petitioner is a member. The petitioner responded with new documentation, including evidence that the petitioner is also a member of the American Society of Nephrology (ASN), the Biophysical Society and the American Physiological Society (APS) including the Renal Section of APS. The evidence reveals that the petitioner joined APS after the date of filing and does not establish that the petitioner was a member of these other new associations as of the date the petition was filed. The director ultimately concluded that the petitioner's memberships could not serve to meet this criterion. On appeal, counsel asserts that the petitioner's memberships in APS, the American Heart Association and the ISHR serve to meet this criterion. While counsel asserts that the petitioner was elected to membership in the APS and reiterates the purposes of the remaining associations, he does not explain how any of these associations require outstanding achievements as judged by recognized national or international experts. We will consider the specific membership requirements below.

In response to the director's request for additional evidence, the petitioner submitted evidence regarding the American Society of Pharmacognosy from www.wikipedia.org. We note that this website is open to editing by the general public and, thus, may not be presumed to be accurate. The petitioner also submitted the society's constitution as downloaded from its website. This evidence is more persuasive. The constitution provides that membership "shall be open to professional pharmacognosists, to graduate students, and to others with allied interests." While "fellows" must be nominated and appointed based on exceptional contributions, the record lacks evidence that the petitioner is a fellow of this society. The record also lacks evidence as to how the society defines "exceptional."

The petitioner also submitted evidence that membership in ISHR is open to "any physician or scientist who has manifested a scientific interest in heart research." Working as a physician or scientist and professing an interest in the area to which the society is dedicated are not an outstanding achievement.

The petitioner also submitted evidence that the American Heart Association has special categories of membership for their long-term and retirement age members. The petitioner did not submit evidence that his membership falls into one of these categories. Regardless, length of time as a member is not an outstanding achievement. Moreover, it would not appear that national or international experts in the petitioner's field would be needed to judge the length of time as a member. While the petitioner also submitted evidence of the membership benefits of belonging to the American Heart Association, at issue are the membership requirements, not the benefits.

As stated above, the petitioner has not established that he was a member of the remaining associations as of the date of filing. The petitioner must establish his eligibility as of that date. *See* 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Regardless, the petitioner has not demonstrated that any of these associations require outstanding achievements of their members.

A regular member of the Biophysical Society must support the purposes of the society, be a scientist who has educational research or practical publications and be sponsored by two regular members. For

biological scientists, the Department of Labor's Occupational Outlook Handbook 151 (2006-2007 ed.) reflects that a "solid record of published research is essential in obtaining a permanent position involving basic research." Thus, we are not persuaded that publishing one's research is an outstanding achievement. In addition, the petitioner has not established that securing the sponsorship of two regular members of a large, membership-driven professional society is an outstanding achievement.

Applicants for APS membership must possess an advanced degree. The membership committee also considers the applicant's occupation, giving emphasis to those who work in a department of physiology or related field, and the applicant's "contributions to physiological literature." Significantly, however, after discussing the factors considered by the committee, the materials state that regular members "will have a doctoral degree in physiology or related area and will have published at least one paper in a peer-reviewed journal." Completing one's degree is not an outstanding achievement. As stated above, we are also not persuaded that having published a single article is an outstanding achievement. Thus, while APS may have a membership committee that considers the membership applications, the petitioner has not established that the ultimate requirements for membership include outstanding achievements.

The petitioner did not submit the membership requirements of any other association.

In light of the above, the petitioner has not established that he meets this criterion.

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 response to the director's request for additional evidence, the petitioner submitted published materials about research being conducted at the institution where the petitioner works. The director concluded that the research discussed in these articles was not conducted by the petitioner. On appeal, counsel acknowledges that the articles are not about the petitioner's research but were submitted to show the importance of his area of research in general and the specific accomplishments of his mentors who support the petition. Regardless, it remains that those articles cannot serve to meet this criterion as they are not "about" the petitioner. Similarly, while the petitioner's work is listed in a handful of bibliographies, the listings are not published material primarily *about* the petitioner as required by the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

In light of the above, the petitioner has not established that he meets this criterion.

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 a manuscript for *Chemosphere*. We cannot ignore that scientific journals are peer reviewed and rely on many scientists to review submitted articles.

Thus, peer review is routine in the field; not every peer reviewer enjoys sustained national or international acclaim. Without evidence that sets the petitioner apart from others in his field, such as evidence that he has reviewed an unusually large number of articles, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, we cannot conclude that the petitioner meets this criterion.

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

The petitioner relies on several letters to meet this criterion. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. To be considered a contribution of major significance in the field of science, it can be expected that the results would have already been reproduced and confirmed by other experts and applied in their work. Otherwise, it is difficult to gauge the impact of the petitioner's work.

The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim of sustained national or international acclaim. CIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, CIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; CIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. CIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *See also Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Regl. Commr. 1972)).

In evaluating the reference letters, we note that letters containing mere assertions of widespread acclaim and vague claims of contributions and ability are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. In addition, letters from independent references who were previously aware of the petitioner through his reputation and who have applied his work are far more persuasive than letters from independent references who were not previously aware of the petitioner and are merely responding to a solicitation to review the petitioner's curriculum vitae and work and provide an opinion based solely on this review. Ultimately, evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim.

The petitioner obtained his Ph.D. in Botany Pharmacology and Environmental Toxicology at the University of Madras in 2000 under the direction of [REDACTED]. Upon graduating, the petitioner worked as a fellow at the Japanese National Institute of Animal Health in the laboratory of

In 2002, the petitioner began working as a fellow at the National Institute for Environmental Health (NIES) in Japan. There, the petitioner worked in the laboratory of [REDACTED] Kobayashi. In 2003, the petitioner accepted a postdoctoral fellowship at the Albany Medical College in

In 2004, the petitioner joined the laboratory of [REDACTED] at the Weill Medical College of Cornell University as a postdoctoral research associate. The petitioner remained in this position as of the date of filing in 2005.

[REDACTED] asserts that the petitioner's Ph.D. research investigated "the role of various indigenous medicines in human health." More specifically, the petitioner "isolated two cardiac active phytochemicals from *Aegle marmelos* and he conducted cardiovascular pharmacological and toxicological studies in frogs, rats and dogs." [REDACTED] notes that the petitioner obtained original results and received travel grants to present his work. Any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or postdoctoral research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance to the field as a whole. Dr. [REDACTED] does not explain how the petitioner's work has impacted the treatment of heart disease or cardiac research in general.

[REDACTED] asserts that, at the National Institute of Animal Health, the petitioner continued his investigation of *Aegle marmelos*. Specifically, he isolated two biologically active substances and examined the functions of them on the cardiovascular system using a Langendorff isolated heart in a rat model. Once again, [REDACTED] asserts that the petitioner presented this work and that future publications will follow, but fails to explain how this work has impacted the treatment of heart disease or cardiac research in general.

[REDACTED] explains that he had contact with the petitioner while the petitioner was working with [REDACTED] and subsequently invited the petitioner to join his laboratory to investigate diesel exhaust particles on the cardiovascular system. [REDACTED] lists the laboratory techniques used by the petitioner in this research and notes that the petitioner presented this work at international conferences. In conclusion, [REDACTED] praises the petitioner's professionalism and the quality of his experiments. [REDACTED] does not identify any significant results or explain how those results have impacted the field of toxicology.

The record contains no letters from the petitioner's colleagues at Albany Medical College. [REDACTED]

[REDACTED] research scientist at the New York State Department of Health in Albany, asserts that he had interacted with the petitioner to establish a collaboration between his laboratory and the Center for Cardiovascular Sciences at Albany Medical College to study the effects of exposure to environmental pollutants on the cardio-pulmonary system. [REDACTED] implies he is still attempting to write a joint grant proposal with the petitioner although the petitioner is no longer in Albany. [REDACTED] does not

discuss the results of the petitioner's work in Albany or explain how it has impacted the study of environmental pollutants or the treatment of cardio-pulmonary conditions.

explains that the petitioner's current work at Cornell focuses on the role of mast cells and their role in asthma. Specifically, expanding on previous work by [REDACTED], the petitioner used complex surgery to demonstrate that the release of rennin from mast cells triggers a local rennin-angiotensin system that leads to bronchial constriction. [REDACTED] asserts that the petitioner is preparing a manuscript reporting this work and speculates that the article "will be enthusiastically received." In a subsequent letter, [REDACTED] asserts that the petitioner's recent research has been accepted for presentation at a conference. The petitioner submitted evidence that the petitioner presented this work in 2006, after the petition was filed.

In a similar letter, [REDACTED], a professor at the Cornell University Medical Center, asserts that the petitioner's work on mast cells "will be the first demonstration that angiotensin can be made in the airways and then act on the bronchial tissue." [REDACTED] then speculates that the petitioner's research "can open new doors for developing therapies in the treatment of asthma." As stated above, the petitioner must demonstrate his eligibility as of the date of filing. See 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Thus, in order to meet this criterion, the petitioner must have already made contributions of major significance that have garnered him national or international acclaim, the statutory standard in this matter. We cannot conclude that research that has yet to be published and, thus, widely disseminated in the field or even subject to peer-review, can constitute a qualifying contribution of major significance.

The record contains other letters from colleagues and former fellow students, now just postdoctoral associates themselves, reiterating the petitioner's credentials and providing general praise. These letters provide little information that is not otherwise apparent from the record. Some of the letters appear to be from acquaintances with different areas of expertise, such as [REDACTED], a senior researcher at Hitachi Chemical Co. whose area of expertise includes materials physics and chemistry. Similarly, [REDACTED] pursues fuel cell research at the National Yunlin University of Science and Technology in Taiwan, although he claims to have collaborated with the petitioner. In response to the request for additional evidence, the petitioner provided a letter from [REDACTED] Special Advisor to the Rector of the United Nations University Office at the United Nations. The record contains no evidence regarding [REDACTED]'s pharmacological expertise, if any. Regardless, [REDACTED] merely recites the petitioner's credentials and concludes that the petitioner will continue to make contributions that will benefit the United States.

Director of the Residents' Ambulatory Clinic at Sinai-Grace Hospital at Wayne State University, asserts that he knows the petitioner "though his scientific publications and his contemporary research." [REDACTED] explains that the petitioner has made "several important discoveries with phytochemicals, which have the potential to help us fight asthma and heart disease." [REDACTED] does not identify those discoveries or explain how they have already impacted the field by facilitating investigation of new treatments or new avenues of research. [REDACTED] speculates as to the

usefulness of the petitioner's current work with mast cells. Finally, [REDACTED] praises the petitioner's experience with various research techniques. The petitioner provides a similar letter from [REDACTED]

Director and Owner of Genetics Associates, Inc. That the petitioner has the necessary experience and skills to pursue his research does not establish that he has already made an original contribution of major significance.

[REDACTED], a clinical researcher in heart failure at the University of Hull in the United Kingdom, explains that he was asked to support the petitioner's petition for permanent residence in the United States. He states that he "understand[s]" that the petitioner has done substantial research and is associated with distinguished research teams. He concludes that retaining high quality scientists like the petitioner will help the United States maintain its status as the world leader in scientific research. [REDACTED] does not claim to have ever heard of the petitioner or his research prior to being contacted for a reference and does not claim any first hand knowledge of the impact the petitioner's research has had in the field. The statutory standard in this matter is national or international acclaim, not simply competence in a field of strategic importance to the United States.

Many of the letters reference the petitioner's publications and presentations. The petitioner lists six published articles on his curriculum vitae, one of which is a poster presentation, and submitted copies of those articles. **The earliest article was published in 1999.** The petitioner's 2004 article in *Phytomedicine* is available as a "book" through Amazon.com and MedicalTextbook.com. While the petitioner also lists four manuscripts under review or in preparation, none of those manuscripts report the results of his recent work with [REDACTED] at the University of Cornell. The petitioner also lists several conference presentations. Initially, the petitioner submitted evidence that one of his articles is included in a list of articles on pharmacology and toxicology at www.niscair.res.in. Two of the petitioner's articles are listed as "related publications" on [aegle marmelos monoclonal antibodies](http://aegle.marmelos.monoclonalantibodies.com) at www.exactantigen.com. A search of the annotated bibliography of Indian medicine for the petitioner's name and "aegle" produces three articles by the petitioner. Finally, another research team at the University of Madras, where the petitioner obtained his Ph.D., cited one of his articles. This citation by researchers at the University of Madras is the only true citation submitted initially. The Internet allows for a search of existing articles in many ways. That the petitioner is able to produce Internet searches that locate his articles is not evidence that other researchers have relied on his work as would be demonstrated by actual citations.

In response to the director's request for additional evidence, counsel asserts that the petitioner "was cited by many other researchers found in printed as well as online journals and other internet trade sources." Counsel then notes the submission of "the cited reference sheet and other citations." In support of the response, the petitioner provided more electronic database searches that include the petitioner's articles in the results. Once again, the fact that the petitioner's articles are accessible in databases is not evidence that they are actually relied upon by other researchers. The petitioner also submitted a "Cited Reference Search" which lists nine articles by the petitioner or someone with the same last name and first initial. As noted by the director, four of the articles, including the only two articles to be cited more than twice, were published prior to 1999, the year the petitioner first published

his work. On appeal, counsel asserts that “it was not possible to exclude citations from other authors with the same initial and last name” and noted that the petitioner’s articles were listed with the original petition. Regardless, it remains that the evidence submitted does not establish that the petitioner “was cited by many other researchers” as claimed by counsel in response to the director’s request for additional evidence. A rate of one or two citations for an individual article is not consistent with contributions that are of major significance.

Finally, a few of the letters reference a scientific poetry composition by the petitioner. Authorship of a poem, even one with a scientific theme, is not a scientific contribution of major significance.

While the petitioner’s research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or postdoctoral research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance to the field as a whole. The record includes numerous attestations of the potential impact of the petitioner’s work. None of the petitioner’s references, however, provide examples of how the petitioner’s work is already influencing the field. While the evidence demonstrates that the petitioner is a capable researcher with potential, it falls far short of establishing that the petitioner had already made contributions of major significance. Thus, the petitioner has not established that he meets this criterion.

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

The petitioner’s publication record is set forth in detail above. The Association of American Universities’ Committee on Postdoctoral Education, on page 5 of its *Report and Recommendations*, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition are the acknowledgement that “the appointment is viewed as preparatory for a full-time academic and/or research career,” and that “the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment.” Thus, this national organization considers publication of one’s work to be “expected,” even among researchers who have not yet begun “a full-time academic and/or research career.”

Moreover, as stated above, the Department of Labor’s Occupational Outlook Handbook 151 (2006-2007 ed.) reflects that a “solid record of published research is essential in obtaining a permanent position involving basic research” for biological scientists. The handbook also provides that university faculty spend a significant amount of their time doing research and often publish their findings. *Id.* at 224. In addition, the handbook acknowledges that faculty face “the pressure to do research and publish their findings.” *Id.* at 225. This information reinforces our position that publication of scholarly articles is not automatically evidence of sustained acclaim; we must consider the research community’s reaction to those articles. As discussed above, the record does not establish that any of the petitioner’s

articles have been cited more than twice. We are not persuaded that the petitioner's publication record is consistent with national or international acclaim. Thus, the petitioner has not established that he meets this criterion. Even if we did not examine the quality of the evidence submitted to meet this criterion, and we find that we are justified in doing so, the petitioner would still, for the reasons discussed above and below, fall far short of meeting any other criterion.

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

We have already considered the petitioner's alleged contributions above. At issue for this criterion are the position the petitioner was selected to fill and the reputation of the entity that selected him. In other words, the position must be of such significance that the alien's selection to fill the position, in and of itself, is indicative of or consistent with national or international acclaim. While we do not question the reputation of the institutions where the petitioner has been employed, we are not persuaded that training fellowships and postdoctoral appointments are "leading or critical" roles for the institutions as a whole.

Finally, the conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. The petitioner, a postdoctoral research associate, relies on his training fellowship, professional memberships, publications, minimal citation record, review of a single manuscript for a journal and the praise of his peers. While this may distinguish him from other postdoctoral researchers, we will not narrow his field to others with his level of training and experience. [REDACTED] sits on the editorial board of the *American Journal of Physiology*. [REDACTED] and [REDACTED] have had their work featured in *Science Briefs*, *Renal and Urology News* and *Science*. [REDACTED] was a member of the Scientific Advisory Committee of the International Institute of Biotechnology and Toxicology and an executive committee member for the Association of Biomedical Scientists of India. [REDACTED] is the Director of the Residents' Ambulatory Clinic at Sinai-Grace Hospital. [REDACTED] is Deputy Director of the Environmental Health Sciences Division at Tsukuba University. Thus, it appears that the highest level of the petitioner's field is far above the level he has attained.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself as a pharmacology researcher 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 indicates that the petitioner shows promise as a postdoctoral researcher, but is not persuasive that the petitioner's achievements set him significantly above almost all others in his field. 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.