

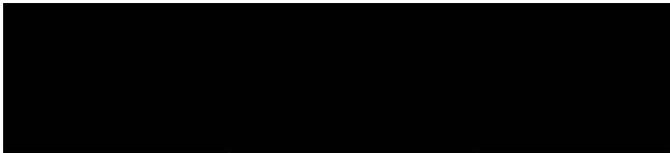


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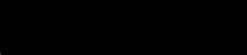
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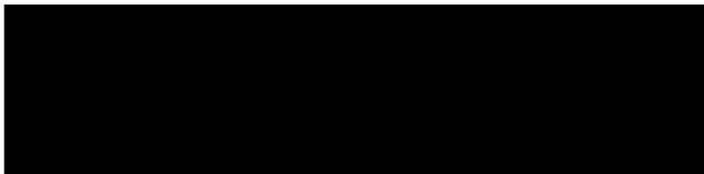
Petitioner:



Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
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 (AAO) 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. 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. The director also found the petitioner had not established that she is one of that small percentage who have risen to the very top of her field of endeavor.

On appeal, counsel argues that the petitioner meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3) and has submitted other comparable evidence of her extraordinary ability pursuant to 8 C.F.R. § 204.5(h)(4).

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.

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, 60898-99 (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 she has sustained national or international acclaim at the very top level.

This petition, filed on March 27, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a freelance writer and poet. The statute and regulations required the petitioner's national or international acclaim to be sustained. *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R.

§ 204.5(h)(3). Although the petitioner has been residing in the United States since June 2001, there is no evidence establishing that she has sustained national acclaim as a writer or poet in this country. Further, while the petitioner's writings were published in Malaysia in the 1990s, there is no evidence showing that her acclaim in that country has been sustained.

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, internationally 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. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. 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). 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 a May 21, 1995 article in *New Sunday Times* stating that she was one of two third prize recipients in the *New Straits Times*-Shell Short Story Competition IV. The article states:

For the third time running since the competition began in 1989, there was no first prize winner and neither was there a second prize winner. The judges decided to award two third prizes instead.

* * *

The other winner, [the petitioner], 31, said writing had been a passion since she was young. [The petitioner], who was previously a lecturer but is now a housewife, has a degree in poetry from the United States.

* * *

Shell Group of Companies chairman and chief executive . . . said Shell's sponsorship of the competition was part of the company's many initiatives to complement the Government's efforts to raise the standard of English in Malaysia.

In response to the director's request for evidence, the petitioner submitted a May 24, 1994 article announcing the start of the fourth *New Straits Times*-Shell Short Story Competition stating:

Shell's Executive Director and Director of Corporate Affairs . . . said as the Prime Minister has been stressing the importance of English in all sectors of society, one of the ways "to recapture the

language which was once our 'second mother tongue' is through this annual short story writing competition.”

He said since its inception in 1989, the competition has become “a significant calendar event that established and budding creative writers look forward to.”

* * *

The Group Editor of the *New Straits Times* . . . said: “If we are going to be a great nation, which is the ambition of everyone, we have to reacquire our skills in English, written and spoken.”

He added that this will not be at the expense of Bahasa Malaysia. “We have already built it to a point where its status cannot be threatened. The promotion of English will not cause Bahasa Malaysia to decline.”

* * *

The closing date of the competition is Sept. 30. It is open to all Malaysians, resident anywhere in the world.

We note that the judges refused to award a first or second prize in the competition. Further, according to the preceding articles, the focus of this competition was the promotion of the English language which is not Malaysia's official or most predominant language. We will not narrow the petitioner's field to English writers in Malaysia. The petitioner has not established that announcement of her third prize in a newspaper tailored to an English speaking minority segment of the Malaysian population is evidence of national or international recognition in her native country. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally *recognized* in the field of endeavor and it is her burden to establish every element of this criterion. There is no evidence showing that the petitioner's third prize commanded significant recognition in the literary field beyond the sponsors of the *New Straits Times*-Shell Short Story Competition.

The petitioner submitted a letter from [REDACTED], Editorial Page News Editor, *The Denver Post*, stating: “[The petitioner] was one of 20 *Denver Post* readers chosen out of more than 400 applicants in a 2001 competition for our Colorado Voices/Compass panel, a group of *non-professional* writers required to submit six columns each over the ensuing year.” [Emphasis added.] There is no evidence establishing that the petitioner's selection for this local, *non-professional* panel of writers constitutes her receipt of a nationally or internationally recognized prize or award for excellence in the field.

The petitioner submitted an undated certificate congratulating her as a “Poetry Slam 101 Prize Winner.” In response to the director's request for evidence, the petitioner submitted an April 7, 2007 letter from Dr. [REDACTED], English Faculty/Writers Studio Coordinator, Arapahoe Community College, stating:

On November 15, 2006, the Arapahoe Community College's Writers Studio sponsored a Poetry Slam with the Denver Poetry Slam team

* * *

Our experienced category drew in local slam poets who participate in slam events on a weekly basis. [The petitioner], a member of the audience, participated in the experienced category. . . . An accomplished writer and poet, she had never participated in a slam poetry event before, but was chosen by an impartial group of judges as the third place winner of this competition

The petitioner's Arapahoe Community College's Writers Studio Poetry Slam 101 3rd Prize reflects local recognition rather than national or international recognition.

The petitioner submitted electronic correspondence indicating that she was among seven finalists in the "poetry" category and among eight finalists in the "fiction/creative non-fiction" category in the Arapahoe Community College Writer's Studio 2007 Literary Contest. The petitioner also submitted a February 11, 2007 letter from Padma Thornlyre, Editor, *Mad Blood*, Evergreen, Colorado, stating that the petitioner "was a finalist for the 2nd *Mad Blood* Literary Arts Award." The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires evidence of the petitioner's receipt of "prizes or awards." Thus, according to the plain language of the regulation, being named as a finalist is simply not evidence that can serve to meet this criterion. Nevertheless, there is no evidence showing that the aforementioned awards are nationally or internationally recognized in the literary field.

In light of the above, the petitioner has not established that she 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.

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. Further, 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 a February 7, 2007 letter welcoming her to membership in the Denver Woman's Press Club. In response to the director's request for evidence, the petitioner submitted information printed from the Denver Woman's Press Club internet site discussing its membership requirements. The membership information states:

Here are the four requirements:

1. You must reside in Colorado.

2. You must meet professional eligibility standards. The specific standards depend on your area of writing specialty.

* * *

Freelance Writers/Editors: Authors/editors of books, plays, and other longer works shall submit a minimum of one example professionally published, printed, or broadcast within the five years prior to application. Writers/editors of other materials, which may include short fiction, nonfiction, nonfiction essays, and poems, shall submit three pieces published, printed, or broadcast by established, recognized periodicals or general news, trade, or academic journals or stations during the two years prior to the time of application.

3. You must attend a regular club function prior to submitting a membership application.
4. An existing club member must be your sponsor. Don't worry if you don't currently know a member. We'll help you find one.

Additional documentation from the Denver Woman's Press Club submitted by the petitioner states: "Applicants for membership will be considered on the professional merit of submitted material. . . . Self-published material will be considered on a case-by-case basis." We cannot conclude that satisfying minimum "professional eligibility standards" and demonstrating "professional merit" are tantamount to outstanding achievements. The petitioner has not established that the Denver Woman's Press Club requires outstanding achievements of its members, as judged by recognized national or international experts in her field. Further, there is no evidence establishing that the petitioner's membership in this women's organization whose members are restricted to Colorado residents is indicative of national or international acclaim.

In light of the above, the petitioner has not established that she 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 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 level from a local publication or from a publication not published in a country's predominant language. 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

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, for instance, cannot serve to spread an individual's reputation outside of that county.

The petitioner did not specifically address this criterion. As discussed, the petitioner submitted a May 21, 1995 article in *New Sunday Times* entitled “Winning stories brought to life at prize giving.” This article was about the *New Straits Times*-Shell Short Story Competition rather than being primarily about petitioner. The plain language of this regulatory criterion, however, requires that the published material be “about the alien.” Further, the author of the article was not identified as required by the plain language of this regulatory criterion. Finally, there is no evidence showing that the *New Sunday Times* qualifies as a form of “major” media.²

In light of the above, the petitioner has not established that she 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 regulation at 8 C.F.R. § 204.5(h)(3) provides that “a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” Evidence of the petitioner’s participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends 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).

The petitioner submitted a March 27, 1996 article by her in the *New Straits Times* entitled “I wouldn’t take what [redacted] said seriously,” but this brief piece is a rebuttal to comments made by [redacted] in a previous article rather than a review of his work. The petitioner also submitted evidence showing that she wrote two book reviews for the *New Straits Times* published on August 19, 1998 and January 5, 2000. The petitioner has not submitted evidence establishing the level of acclaim associated with writing these book reviews or the official means by which she was selected as a reviewer. In addressing these articles, the director found that the record lacked evidence showing their significance and “evidence that such opinion pieces represent the formal judging of the work of others” as contemplated by this regulatory criterion. We concur with the director’s finding on this issue.

The petitioner also submitted evidence showing that she was one of several writers who participated in “an evening of literary readings and discussions” at an event presented by the Arapahoe Community College Writers Studio entitled “Writers On War: A Cultural Conversation hosted by [redacted], Denver Poet Laureate.” There is no evidence showing that the petitioner’s participation in this local event involved judging the work of others in the literary field.

² In response to the director’s request for evidence, the petitioner submitted information printed from the *New Straits Times* internet site showing that it had circulation of 158,042 in 2006, but there is no evidence showing circulation statistics for the *New Sunday Times* in 1995.

In this case, there is no evidence showing that the petitioner has judged the work of others in her field in a manner consistent with sustained national or international acclaim at the very top of her field. As such, the petitioner has not established that she meets this criterion.

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

In response to the director's request for evidence, the petitioner submitted a list of Malaysian writers printed from *Wikipedia*, an online encyclopedia, as evidence that she is "the only Malaysian woman writing political poetry." With regard to the information from *Wikipedia*, there are no assurances about the reliability of the content from this open, user-edited internet site.³ See *Lamilem Badasa v. Michael Mukasey*, No. 07-2276 (8th Cir. August 29, 2008). As such, we will not assign weight to information for which *Wikipedia* is the only cited source. Nevertheless, there is no evidence showing that being "the only Malaysian woman writing political poetry" is a contribution of major significance in the field or is otherwise indicative of sustained national or international acclaim.

The petitioner's response also included an April 13, 2007 letter from her stating:

In May 2002, [*New Internationalist*] published [the petitioner's] poems under the heading "Loving My Land, Dying Inside." . . . These poems directly pointed out the atrocities and wrongdoings of the Malaysia Prime Minister, Dr. Mahathir.

* * *

It is [the petitioner's] belief that her work contributed to the resignation of Dr. Mahathir and consequently had an enormous effect on the political makeup and climate of her home country.

There is no evidence attributing the resignation of the Malaysian Prime Minister to the petitioner's poems. Going on record without supporting documentary evidence is not sufficient for purposes of meeting 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)).

³ Online content from *Wikipedia* is subject to the following general disclaimer:

Wikipedia is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . *Wikipedia* cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on October 7, 2008.

The petitioner also submitted several letters of recommendation discussing her work and talent as a writer.

Professor of Sociology, Director of the International Center, and Associate Vice Provost for International Programs at the University of Missouri-Columbia, states:

I have known [the petitioner] since the early 1980s when she attended the University of Missouri, Columbia. She enrolled in my undergraduate sociology class in Social Organizations and Institutions in the fall semester of 1983. I knew that she needed a different kind of educational experience than the structured requirements she would encounter at UMC; she needed the freedom to range broadly across intellectual boundaries, discover her talents and develop a way to express her insights. I recommended that she apply for Hampshire College, and she enrolled there in the fall of 1985. She completed her B.A degree at Hampshire in 1987. [The petitioner] and I have maintained contact since then.

* * *

The major themes of her current political poetry and essays – democracy, women’s rights and roles, religious tolerance, artistic freedom, the conflicting cultural identities of the immigrant – were evident in those extended conversations we had back in 1983. [The petitioner] has brilliantly sorted out the themes that reflect her complex upbringing: a Muslim-Tamil in a Malay dominated society; a daughter of Sri Lankan immigrants; a young woman of privilege and skills, but with few realistic career opportunities; highly educated yet ‘over’-educated in the eyes of her parents; an obedient daughter with a rebellious intellect; a multi-lingual, Western-oriented young writer; and a Muslim convert to Christianity. These conflicting identities, I believe, have uniquely prepared her to write the searing political poetry that she now does so insightfully.

* * *

[The petitioner] is an exceptionally talented writer. She has established an important niche for herself as a political poet who has made the difficult transition from poet-in-exile to poet-in-residence in the U.S., and embraced her new identity. Her poetry has been showcased in many different venues. Several of her poems appeared in *The New Internationalist* (2002), and she has written more than a dozen columns in the *Denver Post* Op-Ed Compass Columns. Her work has been presented and/or published in numerous other locations.

asserts that the petitioner is a talented writer, but there is no supporting evidence showing that her literary works were original artistic contributions of major significance in the field.

Professor of English and Director of Creative Writing, University of Missouri-Columbia, states:

My own experience, both as a teacher and practitioner of poetry and creative nonfiction, affords me a keen sense of how promising [the petitioner's] work truly is.

* * *

What is unique (and highly attractive) about [the petitioner's] accomplishment is that she manifests both an acute insight into a range of political dimensions – the plights of Christians, women, and other minorities in Islamic nations – and an unusually high level of multilingual artistry. . . . At a time when America's image abroad is under so much critical scrutiny, when our actions abroad are so universally mistrusted and misunderstood, [the petitioner] is poised to offer – in works published both here and abroad – a compelling and ongoing *apologia* for her adopted nation. She is precisely the sort of advocate that may better inform a skeptical world community about America's essentially democratic purposes.

§ states that the petitioner's poetry and creative nonfiction work is "promising," but such a description does not establish she is one of that small percentage who has already risen to the very top of the field of endeavor. See 8 C.F.R. § 204.5(h)(2). A petitioner cannot file a petition under this classification based on the expectation of future eligibility. See *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Commr. 1971).

, Professor Emeritus of Political Science at the University of Missouri-Columbia, states:

We met in the fall of 1984 when [the petitioner] was an undergraduate at the University of Missouri in Columbia.

* * *

[The petitioner's] education and experiences in America profoundly influenced her moral and social values and heightened her awareness of Malaysian governmental policies that discriminate against non-Muslims and that limit freedom of speech for all citizens. Following her return to Malaysia, she became increasingly aware of corruption in the society and limits on religious freedom.

Writing as a poet in America, where her husband works for an American company, [the petitioner] has spoken out against what she perceives as injustices in Malaysian society such as discrimination against non-Muslims, corruption in government, and injustices in the judicial system. These are all very legitimate concerns which many Malaysian feel, but which very few of them openly complain about for fear of government reprisals.

who taught composition and creative writing at Red Rocks Community College until his retirement in 2001, states:

My acquaintance with [the petitioner] goes back ten years. In this time I have discovered a person of wide-ranging talent, great charm, and unflinching persistence. Throughout her work, and in all genres, [the petitioner] has passionately committed herself to the creation of a bridge between the Malaysian and American cultures. Indeed, [the petitioner's] commitment is already opening a pathway to

freedom from the repressive policies of the Malaysian government, which seeks to stifle criticism and impose a form of ethnic purity on its multiracial populous.

* * *

But it was as a poet that [the petitioner] first caught my attention. She is a tiny, sparkly woman. When she reads before an audience – and she reads brilliantly – her brisk, English accented delivery, musical and upbeat, seems at odds with arduous realities that often become her subject. Rhymes pop up here and there, some quite funny, skewering the hypocrisy she has struggled against all of her adult life. Inserting words and phrases in Tamil and Bahasa Malaysia, the national language of Malaysia, gives her poems authenticity. And throughout, we marvel at the kaleidoscopic eruption of images; of rituals, costumes, faces; of perfumes, fruits, and songs modulated by allusions to or from her impressive breadth of scholarship. A rich experience for anyone lucky enough to be in attendance.

[redacted] of Westminster, Colorado, states:

As an ESL [English as a Second Language] instructor at Denver Community College, I have the opportunity to meet many people from foreign countries. A large number of these students, like [the petitioner], have fled oppressive governments, but none have the talent and command of the language to write as passionately and lucidly as she does. Her work speaks to the difficult issues confronting so many of those trapped by political, religious, and racial tyranny. Perhaps her most courageous writing is that which decries the subordination of women. Her work has appeared in both American and Malaysian journals, as she continues to speak out for Malaysian liberty and constitutional reform.

In summary, [the petitioner] is an alien of extraordinary ability in the field of political poetry and creative writing. Since coming to America, she has demonstrated not only her exceptional talents in these areas, but also her tireless effort to use them on behalf of the men and women in her country and other nations who suffer from tyranny.

[redacted] of Indian Hills, Colorado states that he is “a professional writer of poetry, fiction, essays and journalism and as a university instructor who teaches both undergraduate and graduate level courses in literature and writing.” He further states:

[The petitioner] is a multilingual writer of poetry and prose who has published internationally, and I have been impressed by both her creativity and her commitment to moral and political clarity.

* * *

I should add that that [the petitioner’s] writing offers a good deal more than political opinion. Her poetry and fiction addresses the difficult situation of people who must live between cultures – or perhaps in two cultures at the same time. It is through the work of writers like [the petitioner] that Americans may come to a richer understanding of the issues faced by members of other cultures, something that in my view is crucial to our ability to make informed decisions as citizens in an era of globalization.

[REDACTED] Denver Poet Laureate, states:

[The petitioner] currently resides in the Denver area, and because I am presently Denver's Poet Laureate, I have had occasion to meet her and read some of her poetry, as well as her editorial writing. Here is a person who moves gracefully from the high art of poetry to the reasoned and courageous rhetoric of the editorial, displaying an exceptional sense of language as she crosses from the personal to the spiritual to the political. She is multilingual, itself a remarkable thing, and she displays great courage in writing with fierce honesty and deep compassion. She bravely speaks of her desire for her own freedom, and also for the freedom of all people. There is no more American sentiment than this, and [the petitioner's] willingness to speak so passionately and publicly indeed marks her as extraordinary.

[REDACTED] of Evergreen, Colorado states:

I have been teaching poetry and creative writing for twenty years, for adults and young people as an artist in residence in the California Poet in the Schools program, and as mentor and specialist in the public schools in Colorado.

I was the founder and editor of *Buffalo Bones*, a national poetry anthology. I continue to teach, judge poetry contests, mentor, give workshops, and talks. My target audience is basically women at this time. I am especially interested in the plight of women in underdeveloped countries or in those areas where women are especially repressed.

It is through my interest and commitment to women's causes – locally, nationally, and internationally, and my devotion to poetry, that I met [the petitioner]. We share a great deal in common. We agree on many political and religious ideas, and clearly share a deep spiritual outlook. Her poetry reflects her intention to raise the conscience of men and women alike. She has an important message and a strong voice for spiritual and political leaders. Through her publicized writing in the *Denver Post* and other newspapers in the region, she has touched many hearts and raised the awareness of countless people. Her public persona is gracious, sincere, straight forward and powerful.

She has astounded many other writers with first-hand information, strong images, clarity, and enlightenment about Asian/Malaysian women. [The petitioner] stands for women's rights, racial equality, democracy, religious liberty, women's potential and their contribution to the future. People listen to [the petitioner].

[REDACTED], Professor of Modern History, Colorado Christian University (CCU), states:

Several times I have invited [the petitioner] to our campus where she has spoken to students on life in a Muslim country and the political situation in her country of origin. She has also spoken to literature students here at CCU.

* * *

[The petitioner] is a very talented writer, who promotes human rights in her work, especially the rights of minorities and women. In fact, she is the only Malaysian woman I know, who is a prominent dissident of Malaysian politics and religion. I fear that if she ever had to return to her country of origin, that her life would be in danger due to the nature of her literary work. Due to her extraordinary talent in political poetry and creative writing, I believe [the petitioner] possesses an experience which is found only among very few (if any) others. It would be a loss to the rich diversity of our country, were she forced to leave us.

[REDACTED], President Emeritus, Denver Woman's Press Club, states:

[The petitioner] is an accomplished, published writer. As a professional she addresses her work daily in her home office in the same way an employee for a company approaches his or her duties. Her consultation and advice is sought by other writers. She is frequently invited to participate in workshops and presentations at colleges and before writers' groups in the Denver metro area. Her work has been published frequently in the *Denver Post*. Her op-ed articles in the *Post* have contributed to educating readers about Islam, Malaysia and the threat of terrorism.

of the State of Colorado House of Representatives states:

I first came to know [the petitioner] . . . through her Compass columns in the *Denver Post*. Writing from the perspective of a Malaysian/Tamil Christian woman, she provides a unique voice to issues of religious and political freedom. Many people write on those subjects, but [the petitioner's] perspective is absolutely unique and incredibly valuable.

The preceding letters of recommendation indicate that the petitioner has earned the admiration of the faculty at her educational institutions and gained some attention in the Colorado area where she now resides, but there is no evidence showing that she has made original contributions of major significance in the literary field. 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. While the letters of recommendation discuss the petitioner's talent as a writer and her support for freedom and human rights, they include no substantive discussion specifying which of the petitioner's literary works have had major significance in the field. With regard to the impact of the petitioner's work, the record does not indicate the extent of the petitioner's influence on other writers nationally or internationally, nor does it show that the field has somehow changed as a result of her work.

In this case, the letters of recommendation submitted by the petitioner are not sufficient to meet this criterion. These letters, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. CIS may, in its discretion, use as advisory opinion 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 of support from the petitioner's personal contacts 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. Thus, the content of the writers' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of a writer or poet who has sustained national or international acclaim. Without extensive documentation showing that the petitioner's published work has been unusually influential, highly acclaimed throughout her field, or has otherwise risen to the level of original contributions of major significance, we cannot conclude that she 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 did not specifically address this criterion. The petitioner submitted evidence of her poetry, political opinion columns, and book reviews. For example, four of the petitioner's poems were published in the May 2002 issue of *New Internationalist* and she wrote reader opinion columns for the *Denver Post* in 2002. There is no showing that the petitioner's works constituted "scholarly articles in the field" or that they were published in professional or major trade publications or some other form of major media.

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

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

The director found that the petitioner's published work is not relevant to this criterion. We concur with the director's finding. The plain language of this regulatory criterion indicates that it applies to visual artists (such as sculptors and painters) rather than to writers such as the petitioner. The ten criteria in the regulations are designed to cover different areas; not every criterion will apply to every occupation.

On appeal, counsel argues that the petitioner meets this criterion through her third prize in *New Straits Times*-Shell Short Story Competition, her selection as one of 20 *Denver Post* readers chosen for the newspaper's Colorado Voices/Compass panel, her participation in the *Mad Blood* Literary Arts Contest, her third prize in Arapahoe Community College's Writers Studio Poetry Slam 101 contest, and her participation in the "Writers On War" event at the Arapahoe Community College. The preceding evidence has already been addressed under the regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(i) and (iv). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for prizes, judging the work of others, and display of one's work at artistic exhibition or showcases, CIS clearly does not view these criteria as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless. Nevertheless, the petitioner has not established that the evidence she requests consideration of under this criterion is consistent with sustained national or international acclaim at the very top of her field. For example, the petitioner's participation in competitions and speaking engagements at Arapahoe Community College is indicative of local recognition rather than national or international acclaim.

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

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

The director found that the petitioner's temporary role as an opinion columnist for the *Denver Post* could not serve to meet this criterion. For example, there is no evidence differentiating the petitioner's role from the 19 other readers chosen for the Colorado Voices/Compass readers panel, let alone the full-time staff employed by the *Denver Post*. Counsel does not challenge the director's finding on appeal and we concur with the director that the petitioner has not established that she meets this criterion.

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

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

On appeal, the petitioner submits a May 2, 2007 agreement executed between her and Finishing Line Press to publish a work entitled *Please, God, Don't Let Me Write Like A Woman*. According to items 9 and 10 of the agreement, the petitioner is not to be paid any royalties for her work. Nevertheless, the petitioner executed this agreement subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider this agreement in this proceeding. In this case, there is no evidence showing that the petitioner's compensation was significantly high in relation to others in her field.

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

In this case, the petitioner has failed to demonstrate her receipt of a major, internationally recognized award, or that she meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3). 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. 8 C.F.R. § 204.5(h)(2). Further, there is no evidence showing that the petitioner's national or international acclaim as a writer or poet has been sustained. *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). Specifically, the record includes no evidence of nationally or internationally acclaimed achievements and recognition subsequent to her arrival in the United States in June 2001.

On appeal, counsel argues that the letters of support submitted by the petitioner are comparable evidence of her extraordinary ability pursuant to C.F.R. § 204.5(h)(4). This evidence has already been addressed under the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v). **Further, there is no evidence showing that the documentation the petitioner requests re-evaluation of as comparable evidence constitutes achievements and recognition consistent with sustained national or international acclaim at the very top of her field.** While recommendation letters can provide useful information about an alien's qualifications or help in assigning weight to certain evidence, such letters are not a substitute for objective evidence of the alien's achievements and recognition as required by the statute and regulations. The nonexistence of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, the classification sought requires "extensive documentation" of sustained national or international acclaim. *See* section 203(b)(1)(A)(i) of the Act,

8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing the statute provide that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Primary evidence of achievements and recognition is of far greater probative value than the opinions of one’s personal acquaintances.

Nevertheless, the regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of “comparable evidence” only if the ten criteria “do not readily apply to the beneficiary’s occupation.” The regulatory language precludes the consideration of comparable evidence in this case, as there is no indication that eligibility for visa preference in the petitioner’s occupation cannot be established by the ten criteria specified by the regulation at 8 C.F.R. § 204.5(h)(3). Where an alien is simply unable to meet three of these criteria, the plain language of the regulation at 8 C.F.R. § 204.5(h)(4) does not allow for the submission of comparable evidence.

Review of the record does not establish that the petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner’s achievements set her significantly above almost all others in her field at a 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.