



U.S. Citizenship
and Immigration
Services

B2

PUBLIC COPY
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

[REDACTED]

FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: NOV 08 2007
LIN 06 233 53151

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

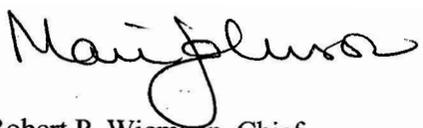
PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 that he qualifies for classification as an alien of extraordinary ability.

On appeal, the petitioner argues that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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 he has sustained national or international acclaim at the very top level.

This petition, filed on August 8, 2006, seeks to classify the petitioner as an alien with extraordinary ability as a biomedical researcher. At the time of filing, the petitioner was working as a postdoctoral researcher in the "Section of Molecular Biology at the University of California at Davis."

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 evidence showing that the American Society for Cell Biology (ASCB) presented him with a "Norton B. Gilula Award for outstanding research by a student" in 2005. The petitioner's submission also included a September 2005 issue of the *ASCB Newsletter* stating: "The Gilula Award . . . recognizes an outstanding graduate student or undergraduate student who has excelled in research." Additional information submitted by the petitioner from the ASCB's internet sites states: "The winner will be selected on merit and will receive travel and per diem expenses to the ASCB Annual Meeting."

The petitioner also submitted an "Award Certification" from the China Scholarship Council stating that he "received [a] Chinese Government Award For Outstanding Self-Financed Students [Abroad] in 2004." The petitioner's submission also included articles discussing the presentation of this award to nine students by the Consulate General of the People's Republic of China in San Francisco. These articles, which only briefly mention the petitioner's name as among the nine scholarship recipients, appeared in the *China Press* and online at www.xinhuanet.com and www.chinaconsulatesf.org.

Being honored for his achievements as a graduate student does not constitute the petitioner's receipt of lesser nationally or internationally recognized prizes or awards *for excellence in the field of endeavor*. The preceding honors were intended to recognize student accomplishment rather than to recognize excellence among professionals already active in the research field. University study is not a field of endeavor, but rather training for future employment in a field of endeavor. The petitioner cannot restrict his field to exclude all those researchers who have long since completed their graduate studies and therefore do not compete for student recognition. We cannot conclude that receipt of a student travel stipend or regional consular scholarship is an indication that the petitioner "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). Top researchers in the field do not aspire to receive awards limited by their terms to students.

In response to the director's request for evidence, the petitioner submitted a November 7, 2006 letter from the Damon Runyon Cancer Research Foundation informing him that his was among "15 applications . . . recommended for funding" of a Damon Runyon Fellowship. This postdoctoral fellowship was awarded to the petitioner 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)(12); *see Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider the petitioner's receipt of this fellowship in this proceeding.

Nevertheless, this fellowship is not a nationally or internationally recognized prize or award for excellence in the field of endeavor, but rather a postdoctoral training program intended to enhance recipients' research abilities. A document submitted by the petitioner entitled "Fellowship Award Eligibility & Application Instructions" states: "Candidates must apply for the fellowship under the guidance of a Sponsor – a scientist (tenured, tenure-track or equivalent position) capable of providing mentorship to the fellow. The Sponsor should be actively engaged in the planning, execution and supervision of the proposed research" This document further states that applicants for the ██████████ Fellowship are evaluated based on "the quality of the training provided by the research environment in which the proposed research is to be conducted and its potential for broadening and strengthening the candidate's ability to conduct innovative and substantive research." The petitioner's receipt of funding to conduct future research "under direct supervision of the Sponsor" is not an indication that he "is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

In 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.

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 evidence showing that he is a member of Sigma Xi, The Scientific Research Society. In a November 23, 2006 letter responding to the director's request for evidence, the petitioner quoted Sigma Xi's membership requirements as posted on its internet site at <http://www.sigmaxi.org/member/join/qualification.html>,¹ which state:

An individual who has shown noteworthy achievement as an original investigator in a field of pure or applied science is eligible for election to Full Membership. This noteworthy achievement must be evidenced by publication as a first author on two articles published in a refereed journal, patents, written reports or a thesis or dissertation.

A "noteworthy achievement" is not necessarily an outstanding achievement. The above requirements indicate that the society does not take a particularly strict view of noteworthy achievements. Specifically, an individual is eligible for membership based on primary authorship of two papers. Further, authorship of one's thesis or dissertation also constitutes a noteworthy achievement for purposes of fulfilling the society's membership

¹ The petitioner's November 23, 2006 letter cited this internet link (accessed by the AAO on October 25, 2007) for information regarding the society's membership requirements.

requirements. We cannot conclude that the preceding requirements are indicative of outstanding achievement, nor is there evidence showing that the petitioner was “judged by recognized national or international experts” in consideration of his admission to membership.

The petitioner also submitted a September 2005 letter welcoming him as a member of the American Society of Cell Biology and his student membership card. According to information submitted by the petitioner from this society’s internet site, “[f]ull members should have a Ph.D. or other professional degree (e.g., M.D., D.V.M.), or have equivalent experience in scientific research” and “[s]tudent membership is available to candidates in good standing for a doctoral degree.”² There is no evidence showing that this society requires outstanding achievements of its members, as judged by recognized national or international experts in the petitioner’s or an allied field.

In his November 23, 2006 letter responding to the director’s request for evidence, the petitioner asserts that the Damon Runyon Fellowship awarded to him in November 2006 meets this criterion. The plain language of this regulatory criterion requires “membership in associations in the field for which classification is sought.” The petitioner’s postdoctoral fellowship is a scientific research training program rather than a membership in an association in his field. Further, as previously discussed, the fellowship was awarded subsequent to the petition’s filing date. 8 C.F.R. § 103.2(b)(12); *see Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider this fellowship in this proceeding.

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 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. 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.³

Regarding the scientific articles that merely reference the petitioner’s published work, we note that the plain language of this regulatory criterion requires that the published material be “about the alien.” In this case, the articles citing the petitioner’s work are primarily about the authors’ work, not the footnoted material identifying the petitioner. With regard to this criterion, a footnoted reference to the alien’s work without evaluation is of minimal probative value. Further, we note that the articles citing the petitioner’s work similarly referenced scores of other authors. The submitted citations to the petitioner’s work do not discuss the merits of his work,

² The record reflects that the petitioner’s Ph.D. degree was awarded to him in June 2006, nine months after his admission to membership.

³ 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.

his standing in the field, any significant impact that his work has had on the field, or any other aspects of his work consistent with his sustained national or international acclaim. The numerous citations of the petitioner's work are more relevant to the criteria at 8 C.F.R. § 204.5(h)(3)(v) and (vi) and will be further addressed later in this decision.

The petitioner submitted a July 29, 2005 article prepared by ██████████ University of California at Davis News Service, and posted on the university's website. This article, entitled "Motoring Proteins and Genetic Disease," was later posted online at www.sciencedaily.com (August 1, 2005) and medicalnewstoday.com (July 31, 2005). Identical passages from this article also appeared in the Fall 2005 issue of the University of California at Davis *Science Notebook*. There is no evidence that this material constitutes published material in professional or major trade publications or other major media. The online material represents a press release issued by the university's news service and is not the result of independent journalistic reportage. Such material is simply not indicative of national or international acclaim.

In his November 23, 2006 letter responding to the director's request for evidence, the petitioner asserts that a four-sentence evaluation posted on the Faculty of 1000 Biology internet site at www.f1000biology.com also meets this criterion. This brief online evaluation of an article authored by the petitioner and six others does not constitute published material about him in professional or major trade publications or other major media.

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 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). For example, evaluating the work of accomplished professors on a national panel of experts is of far greater probative value than evaluating the work of graduate or undergraduate students.

The petitioner submitted a June 26, 2006 letter from his research supervisor, Dr. ██████████ Professor of Cell Biology, University of California at Davis, stating: "[The petitioner] has been becoming one of the leading experts in the field and based upon his achievement and expertise, he participated in reviewing peer's [sic] work for several prestigious journals including *Science*, *Current Biology*, *Molecular Biology of the Cell* and *Genetics*." The record, however, contains no documentary evidence to support Dr. Scholey's assertions regarding the petitioner's participation.

The petitioner also submitted a March 6, 2006 e-mail from the Associate Editor of *Genetics* requesting that the petitioner review a paper for publication. We note that the plain language of this regulatory criterion requires “[e]vidence of the alien’s participation.” The record, however, includes no documentary evidence showing that the petitioner actually participated in the review process for this paper. An invitation to review is not tantamount to actual participation.

In response to the director’s request for evidence, the petitioner submitted the cover pages of various manuscript drafts, some of which were later published, that bear a handwritten notation by the petitioner stating that he participated in reviewing them. The record, however, includes no evidence of the petitioner’s actual participation as a reviewer to corroborate his handwritten claims. 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)). For example, there is no correspondence from the editorial staff of *Science* or *Current Biology* acknowledging the petitioner’s participation as a reviewer. Nor is there documentary evidence of the petitioner’s actual manuscript evaluations.

Even if the petitioner were to submit substantive evidence of his participation in the peer review process for the aforementioned journals, we note that peer review is a routine element of the process by which articles are selected for publication in scientific journals. Occasional participation in peer review of this kind does not automatically demonstrate that the petitioner has sustained national or international acclaim at the very top of his field. Reviewing manuscripts is recognized as a professional obligation of researchers who publish themselves in scientific journals. Normally a journal’s editorial staff will enlist the assistance of numerous professionals in the field who agree to review submitted papers. It is common for a publication to ask several reviewers to review a manuscript and to offer comments. The publication’s editorial staff may accept or reject any reviewer’s comments in determining whether to publish or reject submitted papers. Without evidence that sets the petitioner apart from others in his field, such as evidence that he has participated in reviewing an unusually large number of articles, received independent requests from a substantial number of journals (as opposed to requests delegated to him by his immediate superiors), or served in an editorial position for a distinguished journal in the same manner as Dr. ██████████⁴ 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 submitted several letters of support discussing his research contributions. We cite representative examples here.

Dr. ██████████ states:

[The petitioner] has made major contributions to a series of publications on intraflagellar transport (IFT)-motors in the model organism, *Caenorhabditis elegans* which have significantly advanced our understanding of motor protein function, ciliary assembly and cilia-related diseases. For example, he

⁴ For example, Dr. ██████████ states that he serves as editor of *Journal of Biological Chemistry*.

was the prime mover on our *Nature* paper describing the role of Bardet-Biedl syndrome ciliary disease proteins and a novel activator protein in regulation the functional coordination of IFT-motors and was a co-first authorship on a *Nature Cell Biology* paper that used mutants and time-lapse microscopy to resolve the puzzle of how two IFT-motors cooperate to build ciliary axonemes. In this work [the petitioner] made important contributions to the intellectual basis of this project, he performed the spinning disc confocal light microscopic motility assays and he carried out the molecular biology and genetics.

Dr. [REDACTED] Professor, Department of Molecular, Cellular and Developmental Biology, Yale University, states:

Among [the petitioner's] important contributions to the field, [the petitioner] is the first author of a *Nature* paper that described Bardet-Biedl syndrome proteins and another novel ciliary protein coordinate the motilities of molecular motors that transport ciliary precursors during cilia biogenesis. This is [a] groundbreaking discovery and it provides the first mechanistic insights to the cellular causes of Bardet-Biedl syndrome which had been a big puzzle for the field for a couple of years. [The petitioner] is co-first author in a *Nature Cell Biology* paper that demonstrates the functional relationship of two different molecular motors in building the sensory neuronal cilia. During his research, he largely improved the cellular imaging technology that allows a direct visualization and systematic characterization of the motilities of molecular motors and cargoes within the cilia. . . . In addition, [the petitioner] is co-first author in a brief paper published on *Current Biology* that provides the first evidence that a polycystic kidney disease protein, Qilin, participates in ciliogenesis and causes this disease in a ciliary dependent manner.

Dr. [REDACTED], Professor of Cell and Molecular Biology, Northwestern University Feinberg School of Medicine, states:

[The petitioner's] first contribution to the field is the resolution of how two molecular motors cooperate to transport cargo molecules to assemble and maintain the ciliary structure, a big puzzle in the field since 1999. To address this problem, [the petitioner] renovated the live cell imaging technology to directly and systematically visualize the motilities of motors and cargoes in normal and mutated animals. This cutting-edge technology has been widely used in cilia biology field. [The petitioner] is the co-first author of a paper published on *Nature Cell Biology* summarizing his findings, and this is an excellent paper Subsequently, [the petitioner] continued to study how the molecular motors are coordinated within the cilia during cilia biogenesis and he made one of most important discoveries in the field. [The petitioner] uncovered that Bardet-Biedl syndrome (BBS) proteins and a novel proteins are required to coordinate the motility of these molecular motors and are critical for normal ciliogenesis and his first authored paper based on his exciting finding was published on the top scientific journal *Nature* in 2005. This is a groundbreaking discovery and shed light on the cellular mechanisms of Bardet-Biedl syndrome which was once another fascinating puzzle in the field for a few years.

Dr. [REDACTED] Assistant Professor, Korolinska Institute, Department of Biosciences and Nutrition, Sodertorn University College, Sweden, states:

[The petitioner] has been making very significant contributions to the molecular and cellular mechanisms of cilium biogenesis and human cilia diseases. Some of them are milestones in the field. [The petitioner] was one of the first scientists that innovated live cell imaging technologies so as to make possible the visualization and systematic characterization of transport events within cilia, a process called intraflagellar transport (IFT) absolutely essential for ciliogenesis. . . . Using this specialized technology continuously improved by himself, [the petitioner] was the first who resolved the long standing puzzle of how two IFT-motors cooperate to build sensory cilia and he was the co-first author on a *Nature Cell Biology* paper based on his discovery. His findings are striking and his technology is innovative and powerful. Scientists in the field are very interested in his live cell imaging technology and thus want to incorporate it into their own research projects. For example, I sent one of my graduate students, Evgeni Efimenko, to UC Davis where he learned this technique from [the petitioner] in 2005.

[The petitioner] continued to investigate the regulatory mechanisms of ciliogenesis and cilia diseases, and made his most important contribution to the field. He published his first-authored *Nature* paper that describes how [redacted] syndrome cilia disease proteins and a novel activator protein coordinate the motilities of IFT-motors. These findings are revolutionary, and particularly, he was the first scientist who provided insights into the cellular functions of Bardet-Biedl syndrome proteins, which was a fascinating puzzle for both cilia biology and BBS disease research for a number of years. His findings are thus a milestone in understanding and further clinical treatment of this cilia disease. [The petitioner's] *Nature* and *Nature Cell Biology* papers open a new area in understanding cilium biogenesis and human cilia diseases.

Dr. [redacted] Associate Professor, Department of Microbiology, Molecular Biology, and Biochemistry, University of Idaho, states that the petitioner's findings "have contributed in a very fundamental way to our understanding of the basic molecular and cellular controls of ciliogenesis."

Dr. [redacted], Professor and Chairman, Department of Cell Biology and Anatomy, Graduate School of Medicine, University of Tokyo, states:

[The petitioner] has been productive and made significant discoveries He is the first-author on a major paper published in *Nature*, which is the top scientific journal in the world, which [for the] first time demonstrate[s] how IFT-motors are coordinated by [redacted] syndrome proteins and another novel ciliary protein. His elegant work, a combination of cutting-edge live cell imaging technology and genetics, was also the first one that offered insights to the exact cellular function of BBS proteins in ciliogenesis, which is an innovative discovery in understanding the cause of this disease and motor coordination. [The petitioner] is a co-first author of a *Nature Cell Biology* paper which demonstrated an interesting and novel cooperation mechanism of two IFT-motors in assembly and maintenance of cilia structure.

In support of the preceding experts' statements, the petitioner submitted documentation showing dozens of independent cites to his published findings.⁵ These citation indices are solid evidence that other researchers have been influenced by the petitioner's work and are familiar with it. This unusually large number of citations corroborates the experts' statements that the petitioner has made contributions of major significance in his field. The record reflects that the petitioner's original scientific contributions are important not only to the research institution where he has worked, but throughout the greater field as well. Leading scientists from around the world have acknowledged the value of the petitioner's work and its major significance to the biomedical research field.

In light of the above, the petitioner has 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 submitted evidence of his authorship of articles appearing in publications such as *Nature*, *Nature Cell Biology*, and *Current Biology*. The petitioner also submitted evidence of scores of articles that cite to his work. These numerous citations demonstrate the significance of the petitioner's articles to the greater field. Therefore, the petitioner has established that he meets this criterion.

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

In his November 23, 2006 letter responding to the director's request for evidence, the petitioner states: "I displayed by research discoveries in a number of international scientific conferences. For the details of these presentations, please refer to my resume." We cannot rely upon the self-serving information contained in the petitioner's resume as evidence of his participation in international scientific conferences. Nevertheless, the petitioner's field is not in the arts. The plain language of this regulatory criterion indicates that it applies to visual artists rather than to biomedical researchers such as the petitioner. The ten criteria in the regulations are designed to cover different areas; not every criterion will apply to every occupation. We find that the petitioner's authorship of conference abstracts and poster presentations is more relevant to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi), a criterion he has already met.

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

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

We cannot ignore that the petitioner's roles at the University of California at Davis were that of a graduate student (September 2001 to June 2006) and then a postdoctoral researcher. These subordinate roles are intended to provide temporary scientific training for a future professional career in the research field. While we accept that the University of California at Davis has a distinguished reputation, there is no evidence showing that the petitioner's work as a graduate student or postdoctoral researcher was equivalent to

⁵ For example, the petitioner's response to the director's request for evidence included citation indices showing that his published work has been cited at least 96 times.

performing in a leading or critical role for the university. The record lacks evidence demonstrating how the petitioner's role differentiated him from other researchers at the university holding similar appointments, let alone more senior faculty (including tenured professors such as Dr. [REDACTED]).

In his November 23, 2006 letter responding to the director's request for evidence, the petitioner asserts that he performed in a critical role for the ASCB. As discussed previously, the petitioner submitted an identification card reflecting that he held "student membership" in this society "VALID UNTIL: 12/31/2006." Nothing from the ASCB indicates that the petitioner's role was of significantly greater importance than that of other members of this society, including its "full members." Nor is there evidence that the petitioner has served in a leading or critical role as an ASCB officer or committee member.

There is no evidence that the petitioner was responsible for the preceding organizations' success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim. As such, the petitioner has not established that he meets this criterion.

In this case, we find that the petitioner meets only two of the regulatory criteria, three of which are required to establish eligibility. 8 C.F.R. § 204.5(h)(3). The petitioner has failed to demonstrate his receipt of a major, internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

On appeal, the petitioner requests the opportunity to present oral argument based on the possibility that "there are technical issues related to biomedical research . . . that [the] NSC [Nebraska Service Center] overlooked." The regulations provide that the requesting party must adequately explain in writing why oral argument is necessary. Furthermore, CIS has the sole authority to grant or deny a request for oral argument and will grant argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. See 8 C.F.R. § 103.3(b). In this instance, the petitioner has not specifically identified the "technical issues" to which he refers, nor has he adequately explained why oral argument should be held. Moreover, the written record of proceedings fully represents the facts and issues in this matter. Consequently, the request for oral argument is denied.

Review of the record does not establish that the petitioner has distinguished himself as a 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 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.

⁶ According to the biographic information in Dr. [REDACTED] letter, we note that this professor's achievements indicate that the top of the petitioner's field is a level far above his own level of achievement.