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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: NOV 29 2007
LIN 06 031 51216

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.

9 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.

On appeal, the petitioner argues that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). More specifically, the petitioner asserts that the evidence of record satisfies the regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) – (vi), and (viii).

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 November 7, 2005, seeks to classify the petitioner as an alien with extraordinary ability in "medical research." At the time of filing, the petitioner was working as a research fellow in the Division of Renal Diseases and Hypertension at the University of Colorado Health Sciences Center.

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.

In addressing this criterion, the director's decision stated:

The initial submission indicated that the petitioner has been the recipient of the Young Scientist Award from the 9th European Nutrition Conference, several travel grants to attend conferences and a graduate student scholarship from the Joint Japan/World Bank Graduate Scholarship Program. It does not appear that any of these are nationally or internationally recognized prizes or awards. First, the Young Scientist Award was presented to ten recipients at the conference. The award was limited to "young scientists (<30 years)." A conference award limited to researchers under the age of thirty would clearly exclude the most eminent and established researchers already working in the field from consideration and therefore does not rise to the level of a nationally recognized award. Further, travel grants are small stipends which fund travel to and from a conference, often for those who have posters or abstracts at the conference. There is nothing to indicate that such stipends would be considered national or international level prizes or awards for excellence in the field. Finally, scholarships are academic funding of education, and are based on academic performance rather than excellence in the field overall.

We concur with the director's findings. Regarding the petitioner's receipt of a one-year scholarship from the Joint Japan/World Bank Graduate Scholarship Program to pursue a Master's degree in Public Health at the Harvard School of Public Health (2005), we note that university study is not a field of endeavor, but training for a future field of endeavor. As such, an educational scholarship cannot be considered a prize or award in the petitioner's field of endeavor. Moreover, competition for this annual scholarship was limited to other prospective graduate students applying to the program.¹ Top researchers in the field do not aspire to receive funding for their Master's degree. Thus, the petitioner's one-year graduate studies scholarship cannot establish that he is one of the very few at the top of his field.

¹ According to the Joint Japan/World Bank Graduate Scholarship Program's *Annual Report 2003*, more than 300 students were awarded scholarships in 2003 alone.

On appeal, the petitioner does not address the director's findings. Thus, 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 submitted evidence of his membership in the American Society of Nephrology and the American Society for Bone and Mineral Research. The petitioner also submitted a November 9, 2004 letter stating that he was "elected to Junior membership of the Society for Endocrinology." In addressing this evidence, the director's decision stated that "[t]he record contained no information regarding the membership criteria for any of these societies." We concur. On appeal, the petitioner does not address the director's finding. The petitioner also initially claimed membership on various boards of the Charity Foundation for Special Diseases (CFSD),² Tehran, Iran, where he worked in the Research and Education Department from 2000 to 2004. While this would demonstrate an employer/employee relationship, job-related responsibilities would not be considered membership in an association in the field requiring outstanding achievement.

The record includes no evidence (such as membership bylaws or official admission requirements) showing that above organizations require outstanding achievements of their members, as judged by recognized national or international experts in the petitioner's or an allied field. As such, 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 addressing this criterion, the director's decision stated:

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.

* * *

In the initial submission, the petitioner asserted that he meets this criterion by virtue of three citations of his work. While the petitioner did submit evidence that his work has been cited, the articles contain only brief references to his work. None of the articles were specifically about either the petitioner or his work. A brief reference to work without evaluation is not sufficient to meet this criterion.

² A May 15, 2006 letter from ██████████ Chancellor of Tehran University of Medical Sciences, and Secretary General, Charity Foundation for Special Diseases, states: "CFSD is the only Non Governmental Organization (NGO) affiliated to Tehran University of Medical Sciences and the top NGO in Iran which ranks first in supporting clinical and molecular research on special diseases (Kidney Failure, Thalassemia, Diabetes and Cancer).

Further, the petitioner submitted an article, dated May 6, 2004, from the OBGYN.net website which provides a brief summary of a paper published by the petitioner and colleagues. There is no information regarding the scope of the website or to demonstrate that it would be considered major media. Even if this website were to be considered major media, a single, brief article would not meet this criterion.

Finally, the petitioner submitted evidence that another website, zmed.org, contained a link to one of his articles. Simply linking to an article written by the petitioner would not be considered to be published material about the petitioner.

The petitioner was requested to provide additional evidence regarding this criterion, including the nature of the publications. The petitioner's response did not address this criterion or provide any additional evidence. Therefore, the record does not demonstrate that the petitioner has been the subject of published material in professional or major trade publications or other major media.

We concur with the director's findings. On appeal, the petitioner does not address this criterion. There is no evidence that the article posted on the OBGYN.net website constitutes published material about the petitioner in professional or major trade publications or other major media. Further, the author of this article is not specifically identified as required by the plain language of the regulatory criterion. Rather, the conclusion of the article states: "For additional information, contact [the petitioner], Tehran University Med Science & Hlth Service, Endocrinol & Metab Research Center, Tehran, Iran." It is unclear if this article represents independent media reportage or if it is more akin to an online press release.

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, 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 citations of the petitioner's work are more relevant to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi) and will be further addressed later in this decision.

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.

We concur with the director's finding that the petitioner meets this criterion. For example, the petitioner submitted evidence that he served on the referee board for abstract selection and the scientific advisory board for international conferences held by Tehran University of Medical Sciences and the CFSD. The petitioner also evaluated research proposals for receiving grants from the CFSD and reviewed numerous articles

submitted to *KHASS: Journal of Special Diseases*. Further, the petitioner submitted evidence that he served as chairman and panelist for scientific sessions at an international medical conference sponsored by the Armenian Medical Association.

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 several recommendation letters in support of his petition.

Head, Division of Renal Diseases and Hypertension, and Professor of Medicine, University of Colorado Health Sciences Center, states:

[The petitioner] has an excellent record of publication in scientific journals of international stature. [The petitioner] has authored the chapter of inherited disorders of the kidney in the worldwide reference of nephrology. This is definitely the most reputable and reliable guideline for diagnosis and management of genetic kidney diseases. He has published 24 review and original articles, being first author in 7 of them. [The petitioner] also has 31 abstracts and international presentations with being first author in 14 of them. Unusually this work spans fields of nephrology and internal medicine both in clinical and basic science aspects. Many of [the petitioner's] publications tackle specific issues of interest to medical researchers and are primarily viewed as publication in the fields of Nephrology and Medicine, but include innovation not normally seen in this field. In many respects this encapsulates the value of [the petitioner's] contribution to research in our division and shows him to be a proven leader of international regard in this type of cross disciplinary research.

* * *

In addition [the petitioner] has published his work in the *Kidney International*, a journal of international repute, titled "Autosomal Dominant Polycystic Kidney Disease [ADPKD] in Infancy and Childhood: Progression and Outcome", this work is unique in the field and represents a completely new direction for work on ADPKD in childhood and adolescence. I consider that the approach of [the petitioner] will continue to be highly productive and this work be judged a landmark publication for many researchers involved in this field.

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 published 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 in the 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 Dr. Berl asserts that petitioner's work on ADPKD is "unique in the field" and represents a "new direction," there is no evidence that it constitutes an original contribution of major significance in his field consistent with sustained national or international acclaim.

██████████ Professor of Medicine, University of Colorado Health Sciences Center, was formerly the Chairman of the Department of Medicine at the university's School of Medicine for 26 years and Head of the Division of Renal Diseases and Hypertension for 20 years. ██████████ who is also an elected member of the Institute of Medicine of the U.S. National Academy of Sciences, states:

I awarded [the petitioner] a research position in the Division of Nephrology and Hypertension at University of Colorado.

* * *

[The petitioner] . . . authored a review article titled "Pathophysiology of water and sodium retention: edematous states with normal kidney function," published in *Current Opinion in Pharmacology*. Body fluid volume regulation by the kidney relies upon the complex interaction of numerous factors. . . . Understanding the kidney's modulation of total body sodium and water in these patients has been perplexing. The *unifying hypothesis*, however, is proposed in this review article to explain the mechanisms of renal sodium and water retention in edematous disorders, in which the kidney is intrinsically normal, thus excluding edema associated with chronic renal diseases and/or nephrotic syndrome. The focus of this hypothesis is the integrity of the arterial circulation.

* * *

[The petitioner's] exceptional expertise prompted me to invite [the petitioner] to author the chapter of inherited disorder of the kidney in The TEXTBOOK of DISEASES OF THE KIDNEY AND URINARY TRACT. Such an authorship requires substantial expertise in one of the most complex areas of nephrology. During the writing of this international reference on the inherited disorders of the kidney, [the petitioner] has reviewed thousands of the most novel articles and publications and judged them to create the guidelines for diagnosis and management of the Alport syndrome, Fabry's disease and Nail-Patella syndrome. This chapter includes 509 references from almost all of the reputable scientific and academic centers around the world.

The review article in *Current Opinion in Pharmacology* and the chapter in ██████████ textbook *Diseases of the Kidney and Urinary Tract*, 8th Edition, were published in 2006. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Commr. 1971). Individuals seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition. *Id.* Accordingly, the AAO will not consider these contributions in this proceeding.

██████████ further states:

Inherited disorders of the kidney include a wide variety of diseases which cause a significant amount of morbidity and mortality nationwide and worldwide. [The petitioner's] research in this very important area of nephrology and internal medicine has made him an expert in autosomal-dominant polycystic kidney disease (ADPKD). ADPKD is the most frequent life-threatening hereditary disease,

affecting from 1 in 500 to 1 in 1000 individuals in the United States and Europe. University of Colorado is one of the leading ADPKD research institutes worldwide. The natural history of ADPKD has not been well described in children and infants and most of the previous studies had involved only a few patients. However[,] [the petitioner's] key role resulted in publications in *Journal of American Society of Nephrology* and *Kidney International*; the two most reputable academic journals in the field of nephrology. Results of these studies indicate that reasonable kidney function will be maintained in ADPKD children into adolescence.

* * *

Alport syndrome is a genetic disorder which causes kidney failure, hearing loss and vision problems. [The petitioner] has established the most comprehensive database of the Alport syndrome worldwide. In my opinion [the petitioner's] research is an exceptional contribution to the understanding of the underlying mechanisms and natural history of this syndrome as it correlates the genotype and the phenotype of more than 600 patients from 150 affected families in US. These families live in different parts of the country and [the petitioner] has done an extraordinary job in gathering all the information together. This correlation has never been studied before in our country and is definitely more comprehensive than the only study done in Europe.

There is no evidence that the results from the ADPKD studies published in *American Society of Nephrology* and *Kidney International* and the petitioner's collection of information for an Alport syndrome database are have been unusually influential, highly acclaimed throughout his field, or have otherwise risen to the level of original contributions of major significance. Further, the journal articles coauthored by the petitioner as mentioned in the letters from Professors Schrier and Berl relate to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for authorship of scholarly articles and original contributions of major significance, CIS clearly does not view the two 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. We will fully address the articles authored by the petitioner under the next criterion.

further states:

In his previous research in the field of nephrology [the petitioner] has also demonstrated prowess in the management of the patients with End Stage Renal Disease (ESRD) who are on hemodialysis. Complications of hemodialysis are always troublesome. One of the most important complications in ESRD patients is Hepatitis C infection. [The petitioner] has performed a multicenter study on these patients and has evaluated more than 600 patients in Iran-Tehran. The result of this study is, in my opinion, a giant step ahead in the prevention of hepatitis C in Iranian population.

, Professor of Medicine, Division of Nephrology, University of Utah School of Medicine, who has coauthored chapters for textbook, states:

[The petitioner] has also demonstrated prowess in the management of the patients with ESRD [End Stage Renal Disease] who are on hemodialysis. Hemodialysis is the only treatment for patients with renal failure who do not have kidney transplant and causes many complications. Prevention of infections is extremely important in this group of patients. [The petitioner] performed a multicenter study on these patients and evaluated more than 600 patients in Tehran, Iran. The result of this study is, in my opinion, a major step in the prevention of hepatitis C in the Iranian population.

Assistant Dean for Clinical Research and Professor of Internal Medicine and Physiology at Wayne State University School of Medicine, who has also coauthored chapters for [redacted] textbook, states:

Hepatitis C is a blood-borne infection causing several medical problems for patients. [The petitioner] has performed a multicenter study in 12 hemodialysis centers in Iran. This national project has returned very appealing results which are of significant clinical importance. The final results of this national Iranian project: "The role of hemodialysis machines dedication in reducing Hepatitis C transmission in the dialysis setting in Iran: A multicenter prospective interventional study" is published in BMC Nephrology. A total of 593 subjects have been studied in this prospective interventional study. Iranian hemodialysis centers needed to be studied based in their own standards. This national project indicated that rigorous implementation of precaution measures remains a cornerstone for prevention of HCV transmission among patients undergoing maintenance hemodialysis, but as unpredictable accidents can always take place in hemodialysis units; machine dedication plays a more important role in prevention of HCV transmission.

[redacted] of Medical Sciences, Tehran, Iran, states:

I have had several interactions with [the petitioner] in many different national meetings and I also had the chance to work with him in different grant proposal review committees and the scientific advisory board of journals and international conferences.

One of the controversial national and international issues in nephrology and the treatment of End Stage Renal Disease has been how to treat hemodialysis patients with hepatitis C infection. [The petitioner] performed extensive research in multiple health care centers, which is presented and published in domestic and international conferences and highly reputable journals. With the new results of his study, the problem seems to be much closer to its solution. The basic idea of [the petitioner's] finding is that separation of hemodialysis machines for patients with hepatitis C can prevent its transmission, considering the level of the health standard in different centers. The wide practical application of this finding and the numerous educational booklets (distributed in a national level to most of the dialysis centers and the health care personnel) that [the petitioner] has prepared have been two giant steps forward in the prevention of this infection in hemodialysis patients.

As the secretary of the Iranian society of Nephrology, I have also observed how this finding was discussed in international meetings by several prominent nephrologists.

Regarding the petitioner's involvement with the national project relating to the prevention of hepatitis C for hemodialysis patients in Iran, even if we were to accept his collaboration on this project as an original contribution of major significance in his field, the plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v) requires "contributions of major significance in the field." One such contribution does not meet the requirements of this criterion.

In this case, the letters of support submitted by the petitioner's professional contacts and their discussion of his contributions are not sufficient to meet this criterion. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. 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 795-796. Thus, the content of the experts' 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 researcher who has sustained national or international acclaim.

In light of the above, 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 submitted evidence of his coauthorship of articles appearing in publications such as *Kidney International* and *American Journal of Human Biology*. In addressing this evidence, the director's decision stated:

Upon consideration, the Service concludes the petitioner's level of achievement as an author, including a number of published articles and conference presentations of posters and abstracts, may establish a degree of international recognition, but falls short of demonstrating sustained national or international acclaim as a scientist. The Association of American Universities' Committee on Postdoctoral Education, on page 5 of its [REDACTED] set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition were 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." This report reinforces the Service's position that publication of scholarly articles is not automatically evidence of significant contributions; the research community's reaction to those articles must also be taken into account.

While there is evidence that the petitioner's work has been cited, citation is a common, expected practice in scientific research. The petitioner's own articles contain dozens of citations, but there is no

indication that the petitioner, in compiling his research, cites only the best-known or most accomplished scholars. More significant is the extent and frequency of such citations. The record in this case only demonstrates ten independent citations from researchers outside of the petitioner's own group. This small number of citations does not establish a demonstrable impact on the field. Therefore, the record lacks evidence that the petitioner's published research has been extensively cited or otherwise recognized.

We concur with the director's findings and take administrative notice of the fact that that authoring scholarly articles is inherent to medical research. For this reason, we will evaluate a citation history or other evidence of the impact of the petitioner's research articles when determining the significance of a petitioner's published work to his or her field. For example, numerous independent citations would provide solid evidence that other researchers have been influenced by the petitioner's work and are familiar with it. On the other hand, few citations of an alien's work may indicate that his work has gone largely unnoticed by the nephrology field.

The petitioner submitted copies of articles citing his work demonstrating that his body of work was cited an aggregate of 11 times as of the petition's filing date, including a self-citation by his coauthor Professor Larijani.³ Self-citation is a normal, expected practice. Self-citation cannot, however, demonstrate the response of independent researchers. While the evidence submitted by the petitioner demonstrates a small degree of interest in his published work as of the petition's filing date, he has not shown that an aggregate of 10 independent citations during his medical research career is consistent with sustained national or international acclaim. We accept that the petitioner has authored a number of published papers over the last several years, but the weight of this evidence is diminished by a lack of citations or other evidence showing these articles were particularly influential in a manner consistent with sustained national or international acclaim.

The petitioner also submitted evidence that he authored abstracts for presentations at conferences such as the 9th European Nutrition Conference (2003) and the 9th Bath Conference on Osteoporosis (2003). The record, however, includes no documentation demonstrating that the presentation of one's work is unusual in the petitioner's field or that the invitation to present at conferences where the petitioner spoke was a privilege extended to only a few top medical researchers. The record also includes no evidence distinguishing the petitioner from others in his field such as documentation showing that his presentations had significantly higher rates of attendance when compared to those of the other conference participants or that he has served as a keynote speaker at a national or international medical research conference.

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

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

³ One citation of the petitioner's work submitted in response to the director's request for evidence appeared in an article published in 2006 and was a self-citation by Professor Schrier. As stated previously, a petitioner must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider these two cites to the petitioner's work in this proceeding.

In an October 10, 2005 letter accompanying the petition, the petitioner asserted that his conference abstracts also meet this criterion. The petitioner's field, however, is not in the arts. The plain language of this criterion indicates that it applies to artists rather than to medical researchers such as the petitioner. The petitioner's conference abstracts have already been addressed under the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi). The ten criteria in the regulations are designed to cover different areas; not every criterion will apply to every occupation.

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.

In addressing this criterion, the director's decision stated:

In the initial submission, the petitioner asserted that he met this criterion based on his participation as a chapter author as well as his participation on various committees. The record contained no documentation clearly documenting his overall role in the organizations or demonstrating that [his] participation was in a leading or critical role. In response to the Service's request for additional evidence, the petitioner no longer mentioned these roles in conjunction with this criterion, and concentrated solely on his currently [sic] employment with the University of Colorado Health Sciences Center. While the University of Colorado is certainly a distinguished organization, there is nothing demonstrating that the petitioner's role has been leading or critical for the organization as a whole.

Specifically, while the record indicates that the petitioner has provided significant contributions to specific research projects within the university, particularly in reference to [redacted] Disease, it does not establish how his role was leading or critical to the university overall. The record lacks evidence demonstrating how the petitioner's role differentiated him from other researchers holding similar appointments, let alone more senior faculty in the organization. . . . The record does not demonstrate that the petitioner has been responsible for the university's success or standing to a degree consistent with the meaning of "leading or critical role." In the context of scientific research, participation in most research projects is inherently important but not necessarily qualifying in scope or impact to meet this criterion.

Further, while [redacted] of the University of Colorado Health Sciences Center asserts that the university "foresee[s] that [the petitioner] will be a Director in one of our new facility [sic] being developed at the medical school," it does not appear that the petitioner has yet acted in such a capacity. Aliens seeking employment-based immigrant classification must possess the necessary qualification as of the filing date of the visa petition. *Matter of Katigbak*, I&N Dec. 45 (Commr. 1971). The Service cannot consider the possibility that the petitioner may act in a leading or critical capacity at some future time as meeting this criterion at the time the petition was filed.

We concur with the director's findings. There is no evidence that the petitioner's role was of significantly greater importance than that of the other researchers employed at the University of Colorado Health Sciences

Center including tenured professors such as [REDACTED]. According to the biographic information attached to their letters, we note that the achievements of [REDACTED] indicate that the top of the petitioner's field is a level far above his own level of achievement.

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

On the Form I-290B, Notice of Appeal to the AAO, the petitioner indicated that a brief and/or evidence would be submitted to the AAO within 30 days. The petitioner's appeal was filed on September 18, 2006. As of this date, more than 13 months later, the AAO has received nothing further.

In this case, we concur with the director's determination that 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 national or international acclaim necessary to qualify as an alien of extraordinary ability. 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. 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.