

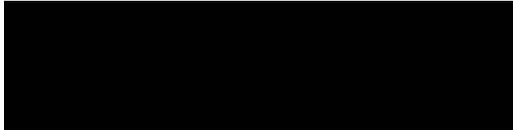
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U.S. Citizenship
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Services

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FILE: LIN 07 115 53986 Office: NEBRASKA SERVICE CENTER Date: OCT 01 2008

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:
[Redacted]

INSTRUCTIONS:

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

A handwritten signature in cursive script that reads "Robert P. Wiemann".

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 on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the arts. The director determined that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, counsel 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 his 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 he has sustained national or international acclaim at the very top level.

This petition, filed on March 12, 2007, seeks to classify the petitioner as an alien with extraordinary ability as an actor, writer, and film producer. Part 6 of the Form I-140, Immigrant Petition for Alien Worker, identifies the petitioner's job title as screenwriter and producer.

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 he received a 2nd Prize at the NonStop Film Festival for his film *Hades* (1999). In response to the director's request for evidence, the petitioner submitted a March 6, 2007 letter from [REDACTED], Executive Director, [REDACTED] stating:

Reaktor Sydost is the film council of the South East Region of Sweden, and a branch of the government funded Swedish Film Institute. The yearly budget of the council is divided to administrative duties, finance film productions and to host the NonStop Film Festival.

The NonStop Film Festival is regarded as one of the major events in the region's film community. It was created with the intention to give public and industry exposure to the works of talented filmmakers. . . . Because of the festival's credibility in the Swedish film community, the winners automatically qualify for the other majors in the country. This has also increased NonStop's popularity and the national attention surrounding the event.

letter describes the NonStop Film Festival as a major event in the South East Region's film community. He also refers to "national attention surrounding the event," but there is no supporting evidence (such as national media coverage) showing that the petitioner's 2nd prize at the 1999 festival reflects national or international recognition rather than regional recognition. The record does not include corroborating evidence demonstrating significance and magnitude of the festival in 1999. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's prize be nationally or internationally *recognized* in the field of endeavor and it is his burden to establish every element of this criterion. In this case, the petitioner has not established that his 2nd prize commanded significant recognition beyond the regional film council or that the competition for his prize category included entrants from outside the South East region. With regard to the 1999 NonStop Film Festival, the record does not include evidence demonstrating the number of awards given at the festival, the geographic area from which individuals eligible for consideration for the awards were drawn, the criteria for granting the petitioner's prize, the level of expertise of those who competed against him, and the number of entrants in his particular competitive category.

The petitioner also submitted evidence showing that he received a financial grant for “continued education” from the Anders Sandrews Foundation (2000), a scholarship for “continued studies in screenwriting” from *Svenska Dagbladet* (2000), a cultural stipend for support and encouragement for his work as a screenwriter from the Kronoberg County Council (1999), and a financial grant from the “Friends of the Emigration Institute” for “continued research about Swedes and Native Americans” (1995). The preceding honors reflect financial support for the petitioner’s education and ongoing work rather than nationally or internationally recognized prizes or awards for excellence in his field of endeavor. There is no evidence establishing that the petitioner’s receipt of such financial support was nationally recognized or otherwise indicative of sustained national or international acclaim at the very top of his field.

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

The petitioner initially submitted several articles that were primarily about him, but the dates of the articles and the names of the publications in which they were printed were not provided as required by the plain language of this regulatory criterion. In response to the director’s request for evidence, the petitioner submitted several articles from the 1980s discussing films in which he acted during his childhood years, but these articles only mention the petitioner’s name in passing and were not primarily about him. The plain language of this regulatory criterion requires that the published material be “about the alien.” The petitioner’s response included an article in *Aftonbladet* (December 1986) and three articles in *Dagens Nyheter* (January 1986, June 1986, and December 1986). The petitioner also submitted information printed from *Wikipedia*, an online encyclopedia, regarding the circulation of *Aftonbladet* and *Dagens Nyheter*. With regard to the information from *Wikipedia*, there are no assurances about the reliability of the content from this open, user-edited internet site.² See *Lamilem Badasa v. Michael Mukasey*, No. 07-2276 (8th Cir. August 29, 2008). As

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.

² 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

such, we will not assign weight to information for which *Wikipedia* is the only cited source. In this case, there is no reliable evidence showing that the articles discussing the petitioner were printed in professional or major trade publications or some other form of 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, judging a national competition involving experienced professionals is of far greater probative value than judging a regional competition involving novices.

In response to the director’s request for evidence, the petitioner submitted a March 28, 2007 letter from [REDACTED] stating:

In 2003 [the petitioner] was offered to join the jury of the NonStop Film Festival. We elected him because of his long standing and impressive multi faceted career in the world of filmmaking, and the famous films which he has starred in. The board members of Reaktor Sydost (then Filmik) felt confident that he would, like his predecessors on the jury, contribute to the status of the festival. We were grateful that he accepted the position, and of his highly skilled analysis of the different films.

The record does not include supporting evidence establishing the reputation of this festival in 2003 or the level of acclaim associated with serving as a juror. Nor is there evidence showing the specific work judged by the petitioner, the names of those he evaluated, their level of expertise in filmmaking, or documentation of his assessments. Without substantive evidence showing, for example, that the petitioner has judged experienced filmmakers in a manner consistent with sustained national or international acclaim at the very top of his field, we cannot conclude that he meets this criterion.

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 September 18, 2008.

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 recommendation discussing his talent as a screenwriter and producer, and his activities in the filmmaking industry, but these letters do not include a substantive discussion as to which of his specific achievements constitute original contributions of major significance in the field of filmmaking. 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 petitioner is admired for his creative talent, experience, and potential, there is no evidence demonstrating the national or international success of his work such that it can be considered original artistic contributions of major significance in the field. For example, the record does not indicate the extent of the petitioner's influence on other filmmakers nationally or internationally, nor does it show that the field has somehow changed as a result of his work.

Some of the letters submitted by the petitioner briefly mention his authorship of two non-fiction books about North American Indians, but there is no evidence demonstrating that this work has had major significance in the field of American Indian studies. According to the information submitted by the petitioner, his book *Hokahey* "sold" 1,200 copies and his book *Lansens Folk* had 3,500 copies in print. Published material written by the petitioner relates 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 two non-fiction books authored by the petitioner under the next criterion.

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 professional 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 writer or filmmaker who has sustained national or international acclaim. Without extensive documentation showing that the petitioner's work has been unusually influential, highly acclaimed throughout his field, or has otherwise risen to the level of original contributions of major significance, we cannot conclude 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 books entitled *Hokahey* (2001) and *Lansens Folk* (1996). According to the information submitted by the petitioner, his book *Hokahey* “sold” 1,200 copies and his book *Lansens Folk* had 3,500 copies in print. The petitioner has not established that these non-fiction books were major publications in the field of American Indian studies, that they were frequently cited by others in the field, or that their publication was otherwise consistent with sustained national or international acclaim at the very top of the field.

The petitioner also submitted a July 29, 1992 newspaper article stating that he wrote articles about American Indians for the *The Smaland Post*, but the record does not include copies of these articles. The nonexistence of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, there is no evidence showing that *The Smaland Post* qualifies as a professional or major trade publication or some other form of major media.

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.

The petitioner submitted evidence showing that he prepared a display on American Indians for a summer exhibition at the “House of Emigrants” in Vaxjo, Sweden (1995). The petitioner’s display consisted of a collection of photographs and samples of Indian art. Such a display does not satisfy the plain language of this criterion as it is not an “artistic” exhibition or showcase of the petitioner’s own artwork. Further, there is no evidence showing that the petitioner’s educational presentation was indicative of sustained national or international acclaim in the field of American Indian studies.

The petitioner also submitted evidence showing that his screenplay *Ms. Fortune* was among 24 selected for reading at the hotINK 2007 International Festival of Play Readings presented by the New York University (NYU) Tisch School of the Arts Department of Drama. According to the hotINK event program submitted by the petitioner, his screenplay was read in NYU’s Drama Department’s Abe Burrows Theatre. There is no evidence showing the significance of this venue or demonstrating that having one’s work performed in this manner was consistent with sustained national or international acclaim at the very top of the filmmaking industry. Further, the plain language of this regulatory criterion indicates that it is most applicable to the visual arts (such as sculpting and painting) rather than the performing arts. With regard to visual artists, the significance of the exhibition or showcase is indicative of their acclaim. Regarding the petitioner’s field of filmmaking, national or international acclaim is generally not established by having one’s screenplay read at an academic venue, but rather by having one’s screenplay developed into a film that attracts a substantial national or international audience. For this reason, the regulations establish separate criteria, especially for those whose work is in the performing arts. The petitioner’s work as a screenwriter and producer is far more relevant to the “commercial successes in the performing arts” criterion at 8 C.F.R. § 204.5(h)(3)(x) and will be further addressed there.

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 order to establish that he performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment.

The petitioner submitted an August 23, 2006 letter from [REDACTED], Vice President, Pure Entertainment, stating:

Pure Entertainment has had a professional relationship with screenwriter/producer [the petitioner] (1977) since the year 2000. We have in the past optioned a very good screenplay "Cover Up," written by him, which went far into the development stage. In 2001, together with [the petitioner] we also produced a web based entertainment show, entitled "Hollywood Live." Currently Pure Entertainment is involved in developing his European screenplay "Dumpad."

Producer and Chief Executive Officer, Nandar Entertainment, states: "I have had the opportunity to work with [the petitioner] on a couple of occasions now for our Television Entertainment News shows, Entertainment Today and Only in LA. [The petitioner] is very knowledgeable of the industry and has great connections to make projects work and bring them to life."

Writer, Director, and Producer, Line 10 Entertainment, Ltd., states: "In 2005 Line 10 Entertainment, Ltd. produced the feature film *That Day*. My associates and I are indebted to [the petitioner]. His co-executive producer services were crucial to the making and completion of our small film."

Producer and Director, and [REDACTED], Development Executive, *Darius goes West*, states: "Last year we produced a documentary called *Darius Goes West: The Roll of His Life*. We are grateful to our Co-Executive Producer [the petitioner] for his participation in the project, assisting in securing funding for this film. Without people like him, this documentary would not have become a reality."

[REDACTED] Producer, 0323 Productions, states:

0323 Productions is a newly established production company, with an aim to create quality television. Next year our company is hoping to produce a television series, with our first step being the production of a pilot episode to present the networks with. Our company wishes to have [the petitioner] join us in raising the finances for this project.

In her initial letter, [REDACTED] formerly of Electric Movies and now president of Jamaad Productions, states: "This is to certify that . . . [the petitioner] functioned as Associate Producer on the film 'The Pack,' written, directed and produced by me the undersigned. Our collaboration was the result of having met through the internet." The petitioner also submitted a "Memorandum of Understanding" with [REDACTED] stating that she would be granted the right to direct and co-produce his screenplay *Ms. Fortune*.

In response to the director's request for evidence, the petitioner submitted an April 16, 2007 letter from [REDACTED] Who's on First?, Entertainment, Inc., to A [REDACTED] discussing financing requirements that had to be met in order to begin production of the petitioner's screenplay *Ms. Fortune*. With regard to the petitioner's screenplay, as there is no evidence of a contract executed with Who's on First?, Entertainment, Inc., we cannot conclude that his role for [REDACTED] company was leading or critical. Further, there is no evidence showing that *Ms. Fortune* had entered production or that the film had been released in theaters as of 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. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider the petitioner's role for Who's on First?, Entertainment, Inc. in this proceeding.

With regard to the production companies for which the petitioner has worked or submitted a screenplay that went into production, the record does not include evidence showing that these companies have distinguished reputations in filmmaking. Nor is there evidence demonstrating how the petitioner's temporary production roles for these companies differentiated him from their permanent employees and more senior management. While the petitioner's evidence indicates that he has provided assistance on various projects and submitted screenplays for consideration, the record does not establish that he was responsible for the production companies' success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim at the very top of his field.

On appeal, counsel argues that the petitioner's authorship of books published by the Swedish Emigration Institute demonstrates his critical role for that organization. As discussed previously, published material written by the petitioner relates to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi). Nevertheless, there is no evidence showing that the Swedish Emigration Institute has a distinguished reputation. Further, there is no evidence differentiating petitioner's role from that of the other authors whose works have been published by the institute, let alone its management and staff. As such, the petitioner has not established that his role for the institute was leading or critical.

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

Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

The petitioner submitted evidence that he has written for, co-produced, or acted in several productions, but there is no evidence of box office receipts or digital video disc sales showing that the petitioner's films were commercial successes. 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)). The nonexistence of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). The plain language of this regulatory criterion requires evidence of commercial successes in the form of "sales" or "receipts"; simply submitting evidence indicating that the petitioner has contributed his talent to various productions cannot meet the plain language of this regulatory criterion. The record includes no evidence of documented sales, receipts, or other similar evidence showing, for example, that the petitioner's films grossed significant national or international revenue in theaters or through DVD sales and rentals, or that he otherwise achieved commercial success in a manner consistent with sustained national or international acclaim.

In response to the director's request for evidence, the petitioner submitted an April 4, 2007 letter from [REDACTED] stating: "We believe that *Ms. Fortune* has the commercial potential to generate tens of millions of dollars both domestically but also on the international market." A petitioner cannot file a petition under this classification based on the expectation of future eligibility. *See Matter of Katigbak*, 14 I&N Dec. at 49. There is no evidence establishing that the petitioner's screenplay enjoyed commercial success as of the petition's filing date.

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

In this case, we concur with the director's determination that the petitioner has failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, counsel argues that the petitioner's books and letters of recommendation are comparable evidence of his extraordinary ability pursuant to C.F.R. § 204.5(h)(4). This evidence has already been addressed under the regulatory criteria at 8 C.F.R. § 204.5(h)(3). Further, there is no evidence that the documentation the petitioner requests evaluation of as comparable evidence constitutes achievements and recognition consistent with sustained national or international acclaim at the very top of his 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 professional 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). In fact, the petitioner has submitted evidence specifically addressing eight of the ten criteria 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 himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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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.