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U.S. Citizenship and Immigration Services
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: AUG 05 2009
LIN 07 203 53007

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

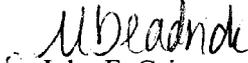
PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to
Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The petition 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 in the arts. 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. More specifically, the director found that the petitioner had failed to demonstrate receipt of a major, internationally recognized award, or that she meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, counsel for the petitioner argues that the petitioner meets the statutory requirements and 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 to the United States will substantially benefit prospectively the United States.

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

however, that the petitioner must show that she has sustained national or international acclaim at the very top level.

This petition, filed on June 14, 2007, seeks to classify the petitioner as an alien with extraordinary ability as cinematographer. 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 of the criteria outlined in 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 that, she claims, meets the following criteria under 8 C.F.R. § 204.5(h)(3).¹

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 documentation indicating that she received "Honorable Mention" for Outstanding Cinematography presented by the American Society of Cinematographers (ASC) at the 21st ASC John A. Alonzo Heritage Award. According to documentation submitted by the petitioner, the ASC is "an educational, cultural and professional organization" that extends invitations to membership "only to directors of photography with distinguished credits in the industry." The announcement for the 21st annual awards indicated that the ASC Heritage Award for Outstanding Cinematography was established "in order to seek out and recognize talented new cinematographers." The documentation also indicated that:

To accomplish this goal, the Heritage Award Committee contacted colleges and universities with film programs throughout the U.S. and requested submissions of their students' best work. These films were reviewed by a panel of ASC members and evaluated by the same high standards of quality and creativity used to determine the other ASC Awards. This year's nominated work made for some close judging, but the Society is pleased to recognized the talent and promise of two honorees and respectfully acknowledge two honorable mentions.

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

In an April 3, 2007 letter from the American Film Institute (AFI), [REDACTED] indicated that the petitioner's honorable mention from the ASC was for her master's thesis film [REDACTED].” The petitioner submitted no documentation to establish that “honorable mention” is a prize or award or that any prize or award given by the ASC is nationally or internationally recognized as a prize or award for excellence in the petitioner's field.

In response to the director's request for evidence (RFE) dated January 27, 2008, the petitioner submitted a copy of an April 2, 2008 letter from [REDACTED] of the ASC. Ms. [REDACTED] stated that the ASC inaugurated the Heritage Award in 1998 as a “competition for film school seniors and recent graduates in the United States.” She further stated that the “award has grown over the years to be highly respected in both academic and professional film communities. It is highly sought after.” The petitioner submitted no documentation such as media coverage or similar documentation to corroborate [REDACTED]'s statements regarding the “respect” garnered by the ASC's heritage awards beyond ASC itself.

The petitioner submitted a press release from the ASC announcing the dedication of its 2008 Heritage Award competition to [REDACTED], a call for entries and the requirements for entry. The press release briefly described the history of the organization. However, nothing in the press release or any information submitted by the petitioner establishes that awards by ASC, particularly student competition awards, are internationally or internationally recognized as awards or prizes of excellence in the field.

Furthermore, with regard to awards won by the petitioner in competitions that were limited by her collegiate status, such awards do not indicate that she “is one of that small percentage who have risen to the very top of the field of endeavor.” See 8 C.F.R. § 204.5(h)(2). There is no indication that the petitioner faced significant competition from throughout her field, rather than the competition being limited to individuals who were “seniors and recent graduates.” USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Commr. 1994); 56 Fed. Reg. at 60899.² Likewise, it does not follow that a competitor like the petitioner who has had success in a competition restricted to those with little or no prior experience in the field, should

² While we acknowledge that a district court's decision is not binding precedent, we note that in *Matter of Racine*, 1995 WL 153319 at *4 (N.D. Ill. Feb. 16, 1995), the court stated:

[T]he plain reading of the statute suggests that the appropriate field of comparison is not a comparison of Racine's ability with that of all the hockey players at all levels of play; but rather, Racine's ability as a professional hockey player within the NHL. This interpretation is consistent with at least one other court in this district, *Grimson v. INS*, No. 93 C 3354, (N.D. Ill. September 9, 1993), and the definition of the term 8 C.F.R. § 204.5(h)(2), and the discussion set forth in the preamble at 56 Fed. Reg. 60898-99.

Although the present case arose within the jurisdiction of another federal judicial district and circuit, the court's reasoning indicates that USCIS' interpretation is reasonable.

necessarily qualify for an extraordinary ability employment-based immigrant visa. To find otherwise would contravene the regulatory requirement at 8 C.F.R. § 204.5(h)(2) that this visa category be reserved for “that small percentage of individuals that have risen to the very top of their field of endeavor.”

The petitioner submits no new documentation or argument regarding this award on appeal. None of the documentation submitted indicates that an “honorable mention” at the ASC Heritage Awards is an award or that the ASC Heritage Award is a nationally or internationally recognized as an award of excellence.

The petitioner also submitted documentation indicating that she won the Best Student Film for her film “Caroline Crossing” at the 2007 Dam Short Film Festival and a 2006 Sherrill C. Corwin Scholarship at the AFI. In denying the petition, the director noted that competition for these awards is limited to students and that academic study is not a field of endeavor. Academic study is training for a future field of endeavor. As discussed above, because competition for these awards is limited to other students and recent graduates it does not appear that experienced cinematographers are competitors. Thus, these awards cannot establish that the petitioner is one of the very few at the top of her field.

The petitioner submitted documentation which she stated indicated that the film “Anatomy of Pain 2 – The Dead are Deadly” won the Gold Medal of Belgrade for Best Documentary in 2001 and the film “Anatomy of Pain” won the Grand Prix at the 47th Documentary and Short Film Festival in 2000. The petitioner stated that she served as director of photography on both of these films, which were directed by [REDACTED]. The petitioner also stated that the film, “Gallows for Two,” won the Gold Medal of Belgrade for Best Student Film at the 44th Documentary and Short Film Festival in 1997, and that it was directed by [REDACTED] while she served as director of photography. An article, which purportedly appeared in a March 31, 1997 publication *Politika* indicates the film won for “Best Debut.” The petitioner did not submit the original of the *Politika* article and the translation submitted does not comply with the regulation in that the translator is not identified, and the translator did not certify that the translation was complete and accurate and that he or she is competent to translate from Serbian into English. The document therefore does not comply with the provisions of 8 C.F.R. § 103.2(b)(3) and will not be accorded any weight in this proceeding.

In response to the RFE, the petitioner submitted an April 3, 2008 letter from [REDACTED], Secretary of “FEST Head Office,” in which he stated that, established in 1960, “[t]he International Festival of Documentary film is the oldest Yugoslav Documentary film festival in continuous operation.” Additionally, [REDACTED] stated:

The awards are given for the overall artistic achievement, as well as individual achievement in a given field. The award recipients are expected to satisfy universal criteria that is commonly accepted at all other International Film Festivals.

The Grand Prix prize is given to the best film which satisfies all three above requirements, and acknowledges professionalism and overall quality of all film workers from directing to cinematography, screenwriting, music, costumes etc. Our additional awards are The Golden Plaque of Belgrade given to the best foreign film and a separate award for the best student film. Gold medals are awarded to the best short feature film and a full length documentary. We also award four diplomas for individual achievement.

[The petitioner] is one of the filmmakers (field of cinematography) awarded the 1997 Best student film Gold Medal of Belgrade's 44th Documentary and Short film Festival. This award was won for the most promising young film artist's achievements that are having their first public showing after graduating. The selection in this group consisted of few hundred competing entries out of which around 20 were chosen to enter final award stage with one final winner.

2000 Grand Prix 47th Documentary and Short Film Festival is an award from the few hundred submitted entries films which our selection narrows down to up to 60 showings – while only one can satisfy the highest range of professionalism and film expression equally well, within all aspects of film-making (camera, directing, editing, etc.). [The petitioner] was the Director of photography of a winning film that year, and like a cinematographer she is holding award on same level like any other film maker in that particular movie.

Also same artist [the petitioner] was the one who held with her colleagues the 2001 Best Documentary – The Golden Medal of Belgrade at the 48th Documentary and Short Film Festival.

The petitioner submitted no documentary evidence to indicate that awards granted by the International Festival of Documentary Film are nationally or internationally recognized as awards of excellence in her field of endeavor. The fact that the festival is “the oldest Yugoslav Documentary film festival” is not sufficient, in and of itself, to establish that awards granted by the festival are recognized beyond the festival itself.

The petitioner submitted a copy of a 2000 “Special Commendation” issued to [REDACTED] in recognition of his “honorable mention” at the Prix Circom Regional for his film “Anatomy of Pain.” The petitioner is not mentioned on the award. Additionally, the petitioner submitted no documentation that this award is nationally or internationally recognized as an award of excellence in her field of endeavor.

The record reveals that the petitioner has received recognition and some awards for her work. However, the evidence submitted fails to establish that the awards or prizes that she received are nationally or internationally recognized as awards of excellence in her field. Accordingly, she has failed to establish that she meets this criterion.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

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 work 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. The overall prestige of a given association is not determinative. The issue is membership requirements rather than the association's overall reputation.

The petitioner submitted a copy of membership card in the Academy of Television Arts & Sciences, and a certificate from the Serbian Association of Film & TV Artists, certifying that the petitioner had been a member of the association since January 1, 2007. The petitioner also submitted a March 16, 2007 letter from the Independent Journalists' Association of Serbia (IJAS), certifying that she was a journalist and a member of the association. The petitioner submitted no documentation regarding the membership requirements of the organizations or to otherwise establish that these organizations require outstanding achievements of their members. We note that the petitioner's membership card in the Academy of Television Arts & Sciences indicates "Academic" membership and therefore appears to be based on her status as a student. The card further indicates that the petitioner's membership in the Academy expired two months prior to the date she filed her petition. According to the website for the organization listed on the petitioner's membership card, academic membership is for those who are students or recent graduates and neither active nor associate membership requires outstanding achievement as a condition for membership. Only life membership is based on "outstanding service to the corporation or outstanding accomplishment in the telecommunications industry."

In response to the RFE, the petitioner submitted an unsigned letter dated March 28, 2008 from the Serbian Association of Film & TV Artists, indicating that, to become a member, the association requires the individual to complete three documentary films "of above average quality" or that at least two out of three films have won major awards. The petitioner submitted no documentation to corroborate the statement in the letter. Further, while the letter indicates that a major award for two films can qualify the individual for membership, it also permits membership based on completion of three documentary films of "above average" quality. Producing films of above quality is not necessarily indicative of outstanding achievement.

The petitioner also submitted a March 28, 2008 letter from the IJAS signed by [REDACTED], the general secretary. [REDACTED] stated that membership in the organization requires that the member has a minimum of two years of news coverage and "[i]nternational recognition (awards won within European market)." The petitioner did not submit documentation to verify Mr. [REDACTED] statement or to otherwise establish the membership requirements of IJAS.

The petitioner has not established that she meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In order to meet this criterion, published materials must be primarily about the petitioner and be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of a significant national distribution.

The petitioner submitted a summary and screen shots of what she stated was a newscast on TV B92 reporting on her receipt of the ASC Award for her film [REDACTED]. She submitted similar documentation from Serbian National TV RTS 1 purportedly of a documentary series *Serbians in the World*. Television programs which are visual works are not published material as contemplated by the regulation at 8 C.F.R. § 204.5(h)(3)(iii) which references written work and specifically requires evidence of an author. In addition, several of the screen shots also contain English captions. The translations of the summaries and screen captions accompanying these documents do not comply with the provisions of 8 C.F.R. § 103.2(b)(3) in that the translator is not identified, did not certify that the translation was complete and accurate, or that he or she is competent to translate from Serbian into English. The petitioner also submitted a copy of a page from the Voice of America (VOA) website dated February 21, 2007, reporting that the petitioner had won honorable mention at the ASC awards. While Internet sites are technically accessible nationally and even internationally, it cannot be credibly asserted that every Internet site has the same degree of national or international influence. The record lacks evidence about traffic garnered by the VOA website such that it can be classified as major media. In response to the RFE, the petitioner submits another page from the website of VOA indicating that VOA broadcasts to a worldwide audience of more than 115 million people. However, the petitioner submitted no documentation about Internet visits to the VOA website.

The petitioner submitted a copy of a February 23, 2007 article from the newspaper *Vesti*, reporting on her receipt of the award from ASC. The petitioner submitted no documentation to indicate that *Vesti* is a professional or major trade publication or is considered other major media. Additionally, the translation did not identify an author of the article as required by the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

The petitioner also submitted copies of several articles that she stated appeared in the following newspapers on February 23, 2007: *24 sata*, *Glas*, *Press*, and *Politika*. The petitioner did not submit certified translations of these documents. See 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding. The petitioner also submitted copies of pages from several websites, including the TV B92, Serbian TV RTS, PINK,

cinematographer.com, digitalcontentproducer.com and studentfilmmakers.com. The petitioner provided copies of pages from the website of the AFI, including a list of 2006-07 Fellow and Alumni Awards and Honors indicating the petitioner was awarded Honorable Mention at the ASC Awards and a discussion of her film *Caroline Crossing* which received the Honorable Mention. The list of honors is not an article about the petitioner or her work. Several documents were from the webpage of *Crucible of War*, a film on which the petitioner worked.

We note first that the pages from the first three websites are not accompanied by English translations as required by the regulation. *Id.* Second, many media organizations, regardless of size and distribution, post at least some of their stories on the Internet. To ignore this reality would be to render the “major media” requirement meaningless. As previously discussed, we are not persuaded that international accessibility by itself is a realistic indicator of whether a given publication is “major media.” The mere act of posting an article online does not transform what is otherwise local media into major media. The record lacks evidence that these sites constitute major media.

In response to the RFE, the petitioner submitted a report from the Pew Research Center that concludes approximately one-third of Americans “regularly get news online.” The petitioner argues that, therefore, Internet websites “should be considered commensurate with major media.” However, just as not every newspaper is considered major media, not every Internet website can be considered major media. Each website attracts a different amount of traffic and without documentation of the visits to a particular website, it cannot be declared major media simply because it is an Internet site.

The petitioner submitted copies of articles from *Dox*, a documentary film magazine; *Washington Paper*; and *Washington Jewish Week* about the film *Crucible of War*, on which the petitioner indicated that she served as cinematographer. These articles generally discuss the director and producers of the film but do not mention the petitioner. Further, the petitioner submitted no documentation to establish that these publications are professional or major trade publications or other major media. The petitioner also submitted an April 14, 2001 article from the director of *Anatomy of Pain 2* and copies of other articles about this film and another film, *Who Killed Ante Markovic*, that are accompanied by only partial translations. Partial translations do not comply with the requirements of 8 C.F.R. § 103.2(b)(3).

The petitioner also submitted information about herself taken from the Internet Movie Data Base (IMDB) and a search of her name using Google and Yahoo. An Internet search of an alien’s name does not amount to published material about the alien as it does not indicate the date that it was published and does not include the information required by the regulation including the title of the piece, the date, the author’s name, or information about the publication so as to qualify it as a professional or major trade publication or other form of major media.

The petitioner has not established that she meets this criterion.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner submitted a letter from [REDACTED] director of the Belgrade Women's Studies and Gender Research Center, in which she stated:

As a well recognized and awarded woman cinematographer, [the petitioner] was welcome to partake, teach, and grade works on the topic of "women in the media". Her lectures came from her first hand experience working in the media (TV, film). She was, and is, considered an accomplished professional who will always be a welcome lecturer with us.

The petitioner submitted no specific documentation regarding actual dates or events to establish that she actually graded or reviewed any work by others. Furthermore, assuming that the record held such evidence, the mere fact that she reviewed the works of others who attended her lectures is not evidence reflecting sustained acclaim under this criterion. Duties or activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine in the occupation itself. The regulation 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 as a member on a national panel of experts is of far greater probative value than evaluating the work of graduate or undergraduate students.

The petitioner also submitted an undated article from the magazine *Republika* reporting on a three-day seminar "Women and the Media" and noting that the petitioner was one of the media representatives covering the seminar. On appeal, counsel asserts that the translation was inaccurate and, certifying that he is competent to translate the document, asserts that the translation should state that the petitioner was one of the lecturers from television. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Further, the translation of the article does not appear to be complete. The translation therefore does not comply with the provisions of 8 C.F.R. § 103.2(b)(3), which requires that documents submitted in a foreign language must be

accompanied by a full English translation. Regardless, while we do not dispute her participation in this seminar, it is not clear how her participation as a panel member equates to judging the work of others.

Additionally, we note that the translator of the document also translated most of the other documents written in Serbian. This raises the issues of her competence to translate documents from Serbian into English and whether other translations provided by the petitioner are accurate. Furthermore, it also raises the issue as to how often the petitioner participated with the Belgrade Women's Studies and Gender Research Center and the nature of her "teaching" and "grading" the work of those participating with the center.

The petitioner has failed to establish that she meets this criterion.

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

The petitioner submitted a copy of a document that she identified as "Background" published by the University of Belgrade in 2002. The translation accompanying the document indicates that it is a partial translation. Partial translations do not comply with the requirements of the regulation. *See id.* The petitioner appears to be the author of the document; however, she did not indicate how it constituted a contribution of major significance to her field.

In response to the RFE, the petitioner submitted a March 31, 2008 letter from the University of Arts Faculty of Dramatic Arts stating that the "Belgrade University of Arts, Faculty of Dramatic Arts Library has a catalogued issue since 2002, with the following data: Original Title 'Drugi plan' (in English – Background) date published: 10.11.2002."

On appeal, the petitioner makes the following claim:

The petitioner addressed multidimensional aspects of a two dimensional image while focusing on the depth version and background of the given image as a setting for main action to be developed. Her work is opposite to the currently used view (99%+) where the action unfolds in the foreground.

The petitioner submitted no documentation to corroborate her statement and nothing to indicate that her work constituted a contribution of major significance to her field. 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)).

On appeal, the petitioner submits a February 13, 2007 letter from [REDACTED], professor and rector of the University of Arts in Belgrade, in which he states:

[The petitioner's] work graduating paper "Depth of Background Perception, Second Field of Vision" was not only new, unusual and well refined but it was graded as one of the best written works of her class, having received the highest possible marks.

Nothing in [REDACTED] letter indicates that the petitioner's paper constitutes a contribution of major significance to her field. The petitioner provided no other documentation on appeal in support of this criterion.

The petitioner has failed to establish that she meets this criterion.

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

The petitioner claims to meet this criterion based on the showing of her films in various film festivals. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vii) reveals that this criterion applies to the visual arts. The petitioner is a cinematographer. That said, we acknowledge that there may be instances where a film is part of an artistic exhibition or showcase such that the exhibition may be considered comparable evidence pursuant to 8 C.F.R. § 204.5(h)(4).³

The evidence submitted to meet a given criterion must be indicative of or consistent with sustained national or international acclaim in the field if that statutory standard is to have any meaning. Thus, in order to meet this criterion, the exhibition or showcase must be so exclusive that the selection to be displayed in and of itself sets the artist apart from other members of the field. The fact that a film was shown at a screen festival is not by itself indicative of or consistent with national or international acclaim.

The documentation submitted indicated that the petitioner's films were shown at several film festivals such as the ASC and the DAM Short Film Festival, primarily as student competitive entries. The evidence indicates that the selection of these films was based on a competition and not because of the petitioner's acclaim in her field of endeavor.

The petitioner has failed to establish that she meets this criterion.

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

To meet this criterion, the petitioner must show that she performed a leading or critical role for an organization or establishment and that the organization or establishment has a distinguished reputation.

The petitioner submitted a February 24, 2007 letter from [REDACTED] a "media agency" in Bremen, Germany, signed by [REDACTED] and [REDACTED], neither of which identifies his or her position within the company. The letter confirmed that the petitioner taught

³ Such a claim should be advanced by the petitioner or counsel to be considered.

“newly arrived generations” with the agency. The letter indicated that the petitioner “handled students from six different countries” and taught individual as well as group lessons. However, the letter did not indicate that the petitioner’s role with the agency was in a leading or critical role. Further, the petitioner submitted no documentation to establish that Südost-Medienagentur is an organization with a distinguished reputation. The petitioner submitted pages about the agency that appears to have been retrieved from a local Intranet website. However, these pages are in German and not accompanied by an English translation as required by 8 C.F.R. § 103.2(b)(3).

The petitioner also claims to meet this criterion as an assistant professor at the BK Academy of Fine Arts in Belgrade. The petitioner submitted an undated letter from [REDACTED] “Professor, chief lecturer, tenured cathedra for Film and TV camera work” with the Academy, who stated that he invited the petitioner to be his teaching assistant at the film academy and that “she delivered lectures to my students and she showed some of her films and talked about her experiences in feature and documentary industry.” [REDACTED] did not confirm that the petitioner was an assistant professor at the film academy or that her position as a teaching assistant was in a leading or critical role. Further, the petitioner submitted no documentation to establish that the BK Academy of Fine Arts in Belgrade was an organization or establishment with a distinguished reputation.

The petitioner has failed to establish that she meets this criterion.

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

The petitioner submitted a copy of an April 2, 2007 certificate from Radio TV B92 Ltd. in Belgrade certifying that she worked for the organization from May 1996 to January 2004 as a cinematographer. The certificate indicated that “the average monthly salary” in Serbia in 2003 was CSD 61,800. The petitioner also submitted a copy of a report of “average Salaries” from the Statistical Office of the Republic of Serbia for the years 2002-2003. The report does not include the salaries or wages of individuals specific to the petitioner’s field. In response to the RFE, counsel asserts that the petitioner’s “income was two times bigger than people who were affiliated in financial transactions,” the highest salary included in the report. Nonetheless, the petitioner submitted no documentation to reflect the salary or other remuneration received by others in her field of endeavor. The petitioner must establish that her remuneration is high relative to others in her field. A comparison of compensation to others in unrelated activities and only to occupations in Serbia does not satisfy the requirements of the regulation at 8 C.F.R. § 204.5(h)(3)(ix).

The petitioner also submitted a copy of an invoice that she submitted to Maha Productions in the amount of \$6,600 for work she performed during the period from December 11 to December 22, 2006 and a check made payable to her from Maha Productions in the amount of \$7,193.38. However, the petitioner again failed to submit documentation to establish how this payment compared to others in her field.

The petitioner has failed to establish that she 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.

In her May 18, 2007 letter in support of her petition, the petitioner indicated that she was submitting evidence of this criterion. However, no evidence pertinent to this criterion was included in the petitioner's documentation. The petitioner did not address this issue in her response to the RFE and on appeal, counsel states that the petitioner does not claim to meet this criterion. Accordingly, we find that the record does not establish that the petitioner meets this criterion.

The petitioner submitted letters of recommendation from several individuals who attest to her skill and talent as a cinematographer. [REDACTED] a production executive with Eastman Kodak Company, stated that the petitioner "has risen to the top of the field amongst the thousands of film school students in America." [REDACTED], president of National Geographic Films, stated that the petitioner "possess[es] the qualities to become a leading cinematographer given the right conditions and opportunities." [REDACTED], the executive vice president of the Mole-Richardson Company, stated that the petitioner's "potential is virtually unlimited." These references do not state that the petitioner has risen to the top of her field but that she has the potential of doing so. A visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). [REDACTED], a professor at the Lawrence and Kristina Dodge College of Film and Media Arts at Chapman University, who stated that he is the "primary mentor" for the petitioner, is the only one of the petitioner's references who states categorically that the petitioner "has risen to the very top of her field." However, the evidence submitted by the petitioner does not support [REDACTED]'s assessment.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of her field of endeavor. Review of the record, however, does not establish that the petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. 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.