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**U.S. Department of Homeland Security**
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529-2090

**U.S. Citizenship and Immigration Services**

B2

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: FEB 23 2009
LIN 07 195 50707

IN RE: Petitioner:
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.

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).

Mari Johnson

2 John F. Grissom, Acting Chief
Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an "alien of extraordinary ability" in the sciences, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). 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, counsel submits a brief and a new reference letter. For the reasons discussed below, while we concur with counsel that the evidence relating to the petitioner's contributions and published articles carries more evidentiary weight than acknowledged by the director, we uphold the director's ultimate decision that the petitioner has not demonstrated his eligibility for this exclusive classification. As explained at the end of our decision, our analysis of the criteria individually is consistent with an evaluation of the evidence in the aggregate. We note that some of counsel's criticisms of the director's decision are unfounded. For example, while counsel asserts that the director's characterization of the petitioner as a researcher ignores his position as an "instructor," the faculty page for the Cell Biology department where the petitioner works, submitted by the petitioner in support of the petition, lists several instructors, including the petitioner, under "research faculty."

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.

U.S. Citizenship and Immigration Services (USCIS) 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, 60898-9 (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 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.

According to Part 6 of the petition, this petition seeks to classify the petitioner as an alien with extraordinary ability as a research instructor/scientist. The petitioner received his Ph.D. from Jadavpur University in India in 1995 and subsequently worked as a postdoctoral fellow in the Department of Biochemistry at the University of Delhi. The petitioner then worked as a senior scientist in the Biotechnology Laboratory of the Indian National Dairy Development Board. At the time of filing, the petitioner was working as an instructor in the laboratory of [redacted] at the University of Massachusetts.

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, international 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. The petitioner has submitted evidence that, he claims, meets the following criteria.[1]

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

Initially, the petitioner asserted that his faculty and fellowship appointments and his merit scholarship serve to meet this criterion. The director's request for additional evidence, dated July 9, 2007, noted that fellowships and scholarships are issued to support future academic work or research. In response, the petitioner affirmed the significance of his scholarships, fellowships and faculty appointments. The petitioner did not submit any evidence to support his assertions. 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'r. 1998) (citing *Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg'l. Comm'r. 1972)).

The director concluded that while the fellowships and scholarships were from distinguished institutions, they could not serve to meet this criterion because "veterans" in the field did not compete for such appointments. Counsel does not challenge this conclusion on appeal other than to assert, when discussing the petitioner's articles, that he did "also win 'prizes.'" Counsel, however, does not identify these "prizes" or explain how they are nationally or internationally recognized.

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

The petitioner's fellowships are essentially job offers. A job offer, even a competitive job offer from a prestigious institution, is not an award or prize. Regarding the petitioner's scholarship, academic study is not a field of endeavor, but training for a future field of endeavor. As such, academic scholarships and student awards cannot be considered prizes or awards in the petitioner's field of endeavor. Moreover, competition for scholarships is limited to other students. Experienced experts in the field are not seeking scholarships. Similarly, experienced experts do not compete for fellowships and competitive "junior faculty" appointments as the petitioner himself categorized his instructor position in his initial cover letter. Thus, they cannot establish that a petitioner is one of the very few at the top of his field.

Significantly, this office has held, in a precedent decision involving a lesser classification than the one sought in this matter, that academic performance, measured by such criteria as grade point average, is not a specific prior achievement that establishes the alien's ability to benefit the national interest. *Matter of New York State Dep't. of Transp.*, 22 I&N Dec. 215, 219, n.6 (Comm'r. 1998). Thus, scholarships based on academic performance are certainly not comparable to the awards criterion set forth at 8 C.F.R. § 204.5(h)(3)(i), designed to demonstrate an alien's eligibility for this more exclusive classification.

In light of the above, the petitioner has not demonstrated 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 initially submitted evidence of his membership in the American Society of Bone and Mineral Research (ASBMR) and his application for associate membership in the Orthopaedic Research Society (ORS). In response to the director's request for additional evidence, the petitioner submitted a letter from ABMR indicating that the petitioner has met the qualifications for an "in-training" membership and that the society is the "world's largest society of basic scientists, clinicians and nurse practitioners research skeletal biology and pathology." The petitioner also notes that he has presented his work at ASBMR conferences. In addition, the petitioner submitted a letter from ORS indicating that he has been a member since 2007 and that members must have attended one ORS meeting, published two peer-reviewed papers or presentations of a paper at a meeting and received two letters of recommendation.

The director concluded that the petitioner had not demonstrated that ASBMR or ORS requires outstanding achievements of their members. Counsel does not challenge this conclusion on appeal.

We will consider the petitioner's presentations under the scholarly articles criterion, set forth at 8 C.F.R. § 204.5(h)(3)(vi), below. At issue for this criterion are whether the petitioner is a member of an association and whether the associations require outstanding achievements as judged by recognized national or international experts. ASBMR boasts that it is the world's largest society related to skeletal

biology and pathology. Such a claim is not consistent with the type of exclusive membership that might serve to meet this criterion. Regardless, the petitioner has not submitted evidence of ASBMR's official membership requirements.

The petitioner has not demonstrated that he was a member of ORS as of the date of filing, the date as of which the petitioner must establish eligibility. *See* 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg'l. Comm'r. 1971). Regardless, the ORS letter provides the membership requirements for the society, none of which are outstanding in the petitioner's field. The letter also does not suggest that nationally or internationally recognized experts judge the membership qualifications of prospective members.

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.*

The petitioner has submitted evidence that he is widely and frequently cited and that his work has been favorably referenced in review articles and a press release from his employer. The petitioner's 1998 article in the *Proceedings of the National Academy of Sciences (PNAS)* was covered by *Gene Therapy Weekly*, although the article does not mention the petitioner by name.

The director noted in his request for additional evidence that citations cannot serve to meet this criterion. The director does not specifically address this criterion in his final decision. Counsel does not assert that the petitioner meets this criterion on appeal.

While the evidence discussed above is significant and will be considered as it relates to the significance of the petitioner's contributions and scholarly articles, it cannot serve to meet this criterion. The articles that cite the petitioner's work are primarily about the author's work or review a broad area of research. As stated above, the article in *Gene Therapy Weekly* does not even mention the petitioner by name. Thus, it cannot be considered to be "about" the petitioner relating to his work. Finally, a press release from the petitioner's employer cannot serve to meet this criterion as it is not independent journalistic coverage of the petitioner relating to his work.

In light of the above, the petitioner has not established that he meet 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 note at the outset that simply submitting evidence that relates to a given criterion is insufficient. The quality and significance of the evidence must be analyzed. In order to satisfy a given criterion, the evidence must be indicative of or consistent with national or international acclaim if that statutory

standard is to have any meaning. Evidence that does not set the petitioner apart from most other members of the field, including experienced members of the field, is insufficient. In other words, we will not narrow the petitioner's field to junior faculty members.

The petitioner initially submitted a reviewing history for *Cancer Research.* It is not apparent from this document that the listed manuscript reviews were completed by the petitioner. The petitioner also submitted a self-serving list of reviewed manuscripts for the *Journal of Cellular Biochemistry* and the *Journal of Cellular Physiology.* The petitioner submitted a manuscript review request from *Cancer Research.* The request asks that if the petitioner is unable to complete the review that he suggest "any suitable reviewers." Finally, the petitioner submitted several informal letters from and advising that " had asked that the petitioner review various manuscripts for publication in a variety of journals including *PNAS* and *Nature/Oncogene.* None of the letters are signed.

As stated above, at the time of filing the petitioner was working at the University of Massachusetts in the laboratory of In response to the director's request for more evidence, the petitioner submitted letters from and , an associate professor at the University of Massachusetts.

notes that he is an executive editor for several journals and a senior editor for *Cancer Research.* He asserts that he relies heavily on the petitioner's expert judgment and attests to the importance of the petitioner's role as a reviewer. He concludes that the petitioner "has been chosen from a field of thousands of potential reviewers to serve in this role." asserts that he handles more than 100-200 manuscripts per year and selects "only the very best reviewers that can understand both the technical and theoretical underpinnings of molecular and cellular research." affirms that he has frequently consulted with the petitioner and selected him as a reviewer.

The director concluded that the petitioner's participation in the peer review process does not set him apart from other researchers in his field. On appeal, counsel erroneously asserts that "no mention was made of this category." Counsel notes that the petitioner has reviewed manuscripts for distinguished journals and concludes that it is "self evident" that reviewing for any journal requires expertise in the field. Counsel claims to have had clients approved for this classification who have only reviewed for half the number of journals. Finally, counsel asserts that the director must not have read the letters from and

Counsel cites no precedent decision or other binding legal authority, and we know of none, finding that any peer-review for any journal qualifies an alien under this criterion. That counsel may have had clients approved with fewer reviews is not dispositive. While 8 C.F.R. § 103.3(c) provides that AAO precedent decisions are binding on all USCIS employees in the administration of the Act, unpublished decisions are not similarly binding. Moreover, the AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International,*

19 I&N Dec. 593, 597 (Comm'r. 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

It is not self evident to us that any reviewer must be presumed to meet this criterion. Even assuming that one must be an "expert" to participate as a peer reviewer, we do not question that the petitioner is an expert in his field such that he has a high degree of skill in or knowledge of his field. *See* Webster's New College Dictionary 403 (3rd ed. 2008) (definition of "expert"). The statute, however, does not require only that the petitioner be an expert, but that he also enjoy sustained national or international acclaim. Thus, any evidence submitted to meet this criterion must be indicative of or consistent with recognition beyond the petitioner's immediate circle of colleagues at the University of Massachusetts.

While the petitioner has completed reviews for several journals, the requests have come from his own supervisor and another colleague at the University of Massachusetts. Being requested to review an article by a close colleague is not evidence of national or international acclaim. In addition, the fact that the petitioner was hired to work for and with professors who are also distinguished journal editors is not necessarily an indication of the petitioner's own acclaim. The petitioner cannot demonstrate his own national or international acclaim by association.

We acknowledge the implication in the letters from and that the choice of a manuscript reviewer is a selective process. concedes, however, that he alone oversees between 100 and 200 manuscripts that must be reviewed and he is only one editor. The need for a large number of reviewers in the field is also apparent from the request from *Cancer Research* which asks the petitioner to suggest "any suitable reviewers" if he is unable to complete the review. The number of manuscripts that are submitted to journals, even those just within the petitioner's field, can be extrapolated from this evidence to be quite large. All of these manuscripts must be reviewed by independent reviewers to be considered peer-reviewed. Neither nor provides the total number of reviewers utilized by these journals annually and the record does not contain an official list of reviewers for these journals. While such information was not specifically requested, it bears emphasis that the information in the record is consistent with peer-reviewed journals requiring a large number of reviewers and nothing in the record suggests otherwise.

We cannot ignore that scientific journals are peer reviewed and rely on many scientists to review submitted manuscripts. Thus, peer review is routine in the field and not necessarily indicative of or consistent with national or international acclaim. Without evidence that sets the petitioner apart from others in his field, such as evidence that he has reviewed unusually large number of articles, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, we cannot conclude that the petitioner meets this criterion. Even assuming that the petitioner has reviewed an unusually large number of articles, as stated above, the requests in the record appear to all originate from his own supervisor and another close colleague at the same institution. Thus, this evidence cannot demonstrate the petitioner's recognition beyond his own department at the University of Massachusetts.

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

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

The director did not specifically address this criterion in the final denial. On appeal, counsel notes the number of published articles authored by the petitioner, the distinguished nature of the publications in which they appear and the number of citations. We will address the relevant evidence in detail.

As stated above, the petitioner has worked in both India and the United States. His research in both countries has been published in prestigious journals including *Nature* (a letter) and *PNAS*.

of the Department of Biochemistry at the University of Delhi, discusses the petitioner's work at that institution. Specifically, the petitioner worked on using engineered Sendai virus particles to deliver therapeutic genes to mouse tissue and the role of a host protein in virus-host fusion during infection. does not discuss the impact of this work, but the record contains evidence that it was published in *PNAS* and has been cited 22 times. In addition, *Gene Therapy Weekly* published an article reporting the results. further asserts that at the National Dairy Development Board in India, the petitioner worked on the development of a recombinant vaccine for hemorrhagic fever in animals. does not, however, discuss whether this work was successful and whether it impacted the field.

affirms that he recruited the petitioner to the University of Massachusetts based on his work in India. then discusses the petitioner's work at the University of Massachusetts as "a postdoctoral fellow and instructor." Specifically, explains:

> [The petitioner] discovered lineage-specific transcript control of ribosomal RNA genes by the phenotype specific Runx2 regulatory protein. He established that homeodomain proteins Hoxa10 and D1x3 are critical mediators of bone cell differentiation. [The petitioner] established the role of mesh-less (Msx), distal-less (Dlx) homeodomain proteins in the regulation of bone specific gene transcription. He has made several contributions to defining remodeling events that are functionally linked to confirmation and activity of the skeletal Runx2 gene promoter. He established the lineage specific transcriptional control of ribosomal RNA genes by the Runx2 transcription factor. The broad-based relevance of [the petitioner's] research is documented by publication of his discovery that Runx transcription factors control cell fate and lineage commitment in the top tier journal *Nature*.

a professor at the University of Massachusetts, a member of the National Academy of Sciences and a Nobel laureate, provides similar information.

of the Department of Molecular Virology, Immunology and Medical Genetics at The Ohio State University and a member of the National Academy of Sciences, explains that he collaborates with the petitioner on research to uncover the molecular mechanism of the WWOX gene's anti-tumor activity in bone tissues. asserts that the petitioner was "instrumental" in this study. further asserts that the petitioner's work with the Runx2 regulatory protein has contributed to the field by defining "the chromatin remodeling events that are functionally linked to the activation of the skeletal Oxteocalcin and Runx2 gene."

r of Bone and Mineral Diseases at Washington University in St. Louis, characterizes the petitioner's work in laboratory as "spectacular." further asserts that the petitioner's work with Runx will provide useful novel therapeutic strategies to address unmet clinical needs in skeletal medicine.

Director of the Center for Craniofacial Regeneration at the University of Michigan School of Dentistry, asserts that the petitioner's "fundamental discoveries have the potential to profoundly affect medical science" by identifying "several potential new therapeutic targets for treating osteoporosis."

**Finally,** , a professor at the University of Barcelona, asserts that the petitioner was the first to adapt techniques to look at chromatin rearrangements in bone-specific promoters, which has been instrumental in helping scientists look at new transcriptional targets. Dr. affirms following the petitioner's work since 2001.

The letters detail the originality and potential benefits of the petitioner's work. While more detail of how the petitioner's work has already impacted the field would have bolstered the petitioner's claim to meet this criterion, the citation evidence in this matter is strongly consistent with such an impact.

A 1992 article by the petitioner has been cited 103 times. The petitioner had yet to receive his Ph.D. as of that date and the record lacks letters from the senior author, , explaining the petitioner's role in this research. That said, several of the petitioner's other articles have been cited dozens of times each. The Faculty of 1000, an online service in which approximately 5,000 leading researchers highlight and evaluate important articles, indicates that the petitioner's 2007 letter in *Nature* "sheds new light on the function of Runx2, a key transcription factor in the regulation of osteoblast differentiation."

In light of the record in the aggregate, we are satisfied that the petitioner 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 record contains evidence of 16 published articles and several conference presentations. The director determined that the petitioner's publication record did not set him apart from others in the field.

On appeal, counsel asserts that being published in *Nature* and having over 200 citations in the aggregate sets the petitioner apart from others in the field.

An analysis as to whether the petitioner's publication record sets him apart from others in the field is appropriate. Moreover, more persuasive than the prestige of the journal is the impact of the actual article. That said, as discussed above, the petitioner is widely and frequently cited on a consistent basis. The director did not explain why the citations were not considered as evidence that might demonstrate the significance of the petitioner's publication record.[2] Thus, we are persuaded that the petitioner meets this criterion.

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

The petitioner initially asserted that his conference presentations serve to meet this criterion. In the director's request for additional evidence, the director noted that this criterion only applies to the arts. That conclusion has not been contested and we concur with the director that this criterion does not apply to the petitioner's field. Rather, his conference presentations are more comparable to published articles and, thus, have been considered above pursuant to the scholarly articles criterion set forth at 8 C.F.R. § 204.5(h)(3)(vi).

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

The petitioner claims to have played a leading or critical role for the University of Delhi by mentoring students and the University of Massachusetts by mentoring students and working on grant-sponsored research. The petitioner submitted a student project report submitted to the Worcester Polytechnic Institute listing [redacted] at the University of Massachusetts as the major advisor and the petitioner as a co-advisor. The acknowledgements indicate that the student worked in [redacted]s laboratory and that the petitioner was his "boss." The petitioner submitted the acknowledgements from another student project report naming him as a "valuable resource and biochemistry wizard in the lab." Finally, [redacted], who performed his "predoctoral research" in [redacted]'s laboratory, discusses how the petitioner served as a mentor.

In his request for additional evidence, the director concluded that mentoring undergraduate and doctoral students in the laboratory where he was working could not set him apart from others in the field. In response, the petitioner submitted a letter from [redacted] a professor at the University of Massachusetts. [redacted] discusses how the petitioner would assist other members of the laboratory, including new investigators and undergraduate students. She asserts that the petitioner "has been a leader in the lab and department in terms of organization and updating equipment and teaching other laboratories in the best approaches [sic] for obtaining high quality results."

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[2] For example, self-citations by the alien or his coauthors are not evidence that the work is influential. While the record reveals that some of the citations, as can be expected, are self-citations, a significant number of the citations are from independent sources.

The director did not specifically address this criterion. On appeal, counsel asserts that the letter from was sufficient to meet this criterion. The petitioner submits a new letter from asserting that the petitioner "is playing a leading and key role in my laboratory."

We do not question credibility or sincerity. But whether considers the petitioner's contributions sufficient to warrant the characterization "leading and key role" is not relevant to this criterion. We acknowledge that the petitioner has contributed to s research and, in fact, the field. Thus, we concluded that the petitioner meets the contributions criterion set forth at 8 C.F.R. § 204.5(h)(3)(v). At issue for *this* criterion, however, are the position (job title) the petitioner was selected to fill and the reputation of the entity that selected him. In other words, the position (job title) must be of such significance to the distinguished institution that the very selection of the alien to fill the position, regardless of how he subsequently contributed to the institution while in that role, is indicative of or consistent with national or international acclaim.

We do not question the reputation of the University of Massachusetts. At issue is the role the university hired the petitioner to fill. The petitioner is an instructor. He characterizes the role as "junior faculty." He is not the director of a research center or the head of a department or even the principal investigator on a grant, although we do not mean to imply that every principal investigator able to secure funding meets this criterion.

We do not contest that the petitioner, since being hired, has impressed and contributes to the progress of his laboratory. As stated above, we have already considered the petitioner's research contributions. In considering eligibility under this criterion, we are not persuaded that being hired as an instructor, even in the laboratory of an esteemed member of the field, is indicative of or consistent with national or international acclaim.

Finally, the conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. The petitioner, a junior faculty member, relies on his publication and citation record; the praise of his colleagues and the willingness of his superiors, editors of distinguished journals, to forward manuscript reviews to him. While this may distinguish him from other instructors, we will not narrow his field to others with his level of training and experience. As stated above, the record contains letters from members of the National Academy of Sciences, a Nobel laureate, journal editors, and the directors of research centers. Thus, it appears that the highest level of the petitioner's field is far above the level he has attained.

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 the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself as an acadmic researcher to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence indicates that the petitioner shows talent as a junior faculty member, but is not persuasive that the petitioner's achievements set him significantly above almost all others in his 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.