

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

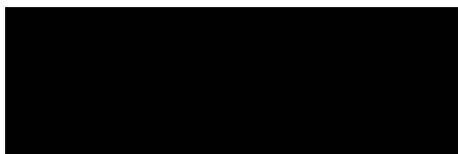
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

B<sub>2</sub>

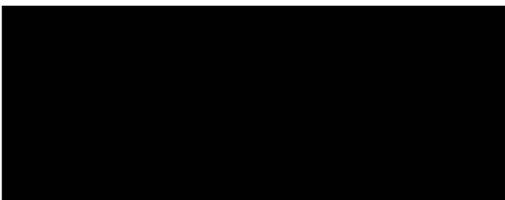


FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: **JAN 27 2009**  
LIN 06 200 50887

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)

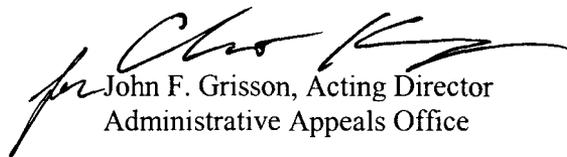
ON BEHALF OF PETITIONER:



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. Grisson, Acting Director  
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 sciences. The director determined that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

(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.

Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h)(3), or under 8 C.F.R. § 204.5(h)(4), must depend 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).

In this case, the petitioner seeks classification as an alien with extraordinary ability in the sciences, specifically research in the area of dermatology. The petitioner initially submitted supporting documents including verification of her education, training and specialization, certificates for participation in medical conferences, her verification of past employment, one article written in English, articles written in Spanish, membership certificates for medical organizations, and nine letters of recommendation. In response to the Request for Evidence ("RFE") dated March 28, 2007, the petitioner re-submitted evidence of her professional memberships, actions to qualify as a rural doctor, and five letters of recommendation. She also submitted a list of her published articles, pamphlets about regional medical facilities, letters verifying that she published articles, and a

list of conferences at which her work was displayed. We address the evidence submitted and counsel's contentions in the following discussion of the regulatory criteria relevant to the petitioner's case. The petitioner does not claim eligibility under any criteria not addressed below.

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

The petitioner submitted evidence of her membership in the American Academy of Dermatology ("AAD"), the Venezuelan Society of Dermatology ("VSD"), the Society for Clinical and Medical Hair Removal ("SCMHR"), the Federal District School of Doctors, the Yolanda Katz Medical Center, and APRONIPA. The submitted documents from the AAD indicate that five levels of membership exist; the petitioner submitted a certificate stating that she is a "Nonresident Fellow." The stated qualification for Fellow is the receipt of board certification and three years of practice as a dermatologist as endorsed by two AAD fellows. Although the AAD guidelines state that properly filed applications are reviewed by the membership committee and forwarded to the Board of Directors, they do not specify that either outstanding achievements are necessary for membership or that either body is made up of experts in dermatology. The submitted printouts from the VSD website state that two categories of membership exist, active member and titular member, however, the petitioner submitted nothing to reflect to which category of membership she belongs. Even assuming that the petitioner is a titular member, the higher category of membership, the record does not establish that outstanding achievements are a prerequisite to membership. The website indicates that a titular member must have earned a dermatology degree in school, be recommended by three existing VSD members, have worked at least three years in the field, and have published two articles as the main author or three articles as a co-author or presented four articles at a VSD conference. Not only does the evidence not show that outstanding achievements are required for membership, but it also does not show that VSD membership applications are judged by national or international experts in the field. Similarly, the SCMHR seems to be an organization of active participants in the field. The submitted printouts from the SCMHR website state that members must comply with certain safety regulations, be sufficiently trained and certified, and comply with all licensing and medical requirements. The letter from [REDACTED] president of the SCMHR, states that the organization's purpose is to help its members stay "current in the changing technologies experienced in the hair removal profession" and does not indicate that the organization restricts its membership only to those with outstanding achievements within the field.

In her original submission, the petitioner stated that membership in the Federal District School of Doctors is "[e]quivalent to medical board." The petitioner provides no evidence to show that this School is more than a regulatory and licensing body and requires outstanding achievements nor did the petitioner provide evidence that prospective members are judged for membership by recognized experts in the field. Instead, the letter from Dr. [REDACTED] member of the Board of Directors, states only that the petitioner is a member and that she is in good standing with the organization. The petitioner submitted no evidence that any sort of association exists for the Yolanda Katz Medical Center or that the selection of doctors occurs because of their outstanding achievements or is done by experts in the field. Instead, the petitioner submits a letter from [REDACTED] president of the Center, stating that the petitioner was chosen as a voluntary member of the Board of Directors because of her "high sense of responsibility to the community." The petitioner's role in APRONIPA is similar to her role with the Center in that she was involved with this community service organization and donated her time accordingly. She submitted no evidence that APRONIPA is a professional organization or that membership in any such organization requires outstanding achievements to be considered for membership. For all of these reasons, the petitioner does not meet this criterion.

*(iii) 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 regulation, 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 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.<sup>1</sup> In his appellate brief, counsel states that the petitioner met this criterion through mention of her in an "Editorial" entitled "Contributions of Immunofluorescence in Dermatology" authored by ██████████ appearing in the 1994 edition of "Dermatologia Venezolana." The regulation at 8 C.F.R. § 103.2(b)(3) requires that a foreign language document "be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." From the incomplete, uncertified translation, it appears that the petitioner's name is mentioned only once and that her study is referenced in one paragraph of a seven paragraph article. As such, it cannot be said to be primarily about the petitioner. Accordingly, the petitioner does not meet this criterion.

*(iv) 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.*

Counsel states that the petitioner meets this criterion by "train[ing] and teach[ing] Dermatology graduates as a Professor at the Department of Dermatology of the Jose Maria Vargas School of Medicine and in the Postgraduate Department of Dermatology at the Institute of Biomedicine at the Central University of Venezuela." The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), 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). Working as a professor at a university inherently involves judging the work of students, who do not amount to those who have already risen to the top of the field. In addition, duties or activities which nominally fall within a given criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent to the occupation itself such as a professor or teacher judging the work of his or her students. Accordingly, the petitioner does not meet this criterion.

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

Counsel states in the original submission that the petitioner meets this criterion through her publication of "a multitude of articles and case studies," because of the "large amounts of research and studies [needed] to

---

<sup>1</sup> 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.

provide conclusive results.” The petitioner failed to prove how the articles and case studies made original, major contributions to her field. In the appellate brief, counsel argues that the petitioner’s article appearing in the American Journal of Medicine makes an original contribution or it would not have been accepted by the Journal. Although the Journal clearly accepts “original scientific studies that have direct clinical significance ...,” it also accepts “articles of immediate interest to the practicing physician” and “useful reviews.” The petitioner presented no evidence to show in which category her article fell. The petitioner also did not include evidence that these articles have been widely cited by other researchers in this field, that her findings have otherwise been adopted or used by dermatological professionals, or any other evidence that her work was of major significance to her field. In addition, as discussed under criterion (vi), the petitioner did not submit translated copies of her articles in violation of 8 C.F.R. § 103.2(b)(3), so we are unable to consider them. Also as discussed under criterion (vi), the petitioner failed to show how any of her publications impacted her field. Moreover, the petitioner’s last documented work in this area occurred in 1999, nearly seven years before her petition was filed and therefore does not reflect the requisite sustained acclaim.

The Editorial by [REDACTED] submitted by the petitioner in response to the RFE appears in Spanish and the translation submitted is not certified as required by 8 C.F.R. § 103.2(b)(3) nor is it a translation of the entire article. While the translated portion of the article seems to reflect that the petitioner participated in a research study touting the importance of using immunoflorescences in the dermatological laboratory, it does not reflect that the study was either primarily conducted by the petitioner nor that the study made an original, major contribution to the field. In addition, the Editorial emphasizes the usefulness of the bibliography of references included with the article and that the study argued for an increased use of an existing technology available to others within her field. The petitioner fails to show that this compilation of others’ work or the petitioner’s argument for the use of a specific technology amount to an original contribution of major significance to the field. In addition, [REDACTED] is not an objective source as he is a former professor of the petitioner.

In addition to her articles, the petitioner submitted copies of one abstract, of which she is the lead author, presented at the World Congress of Dermatology in 1992 and 31 certificates of authorship, exhibition, and presentation at dermatological conferences held between 1989 and 1992. Yet the record does not indicate that the petitioner’s work received special recognition at any of the conferences nor does she submit evidence of any other sort of major recognition in her field associated with those submissions. We again note that the latest certificate is dated 1992, which is fourteen years prior to the submission of this petition and does not reflect the requisite sustained acclaim.

The petitioner submitted various letters of recommendation in support of her claim for eligibility under this criterion. These letters, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I. & N. Dec. 791, 795 (Comm. 1988). However, USCIS 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 personal contacts is not presumptive evidence of eligibility; USCIS 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 carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has achieved sustained national or international acclaim. Accordingly, we reviewed the letters as they related to other evidence of the petitioner’s contributions.

The petitioner submitted a letter of recommendation from [REDACTED], Head of the Dermatology Department at the Central University of Venezuela. [REDACTED] letter states that the petitioner's reports and articles "have been of great importance at the global level ..." and that "the work that [the petitioner] has completed has been a great contribution to medicine and to dermatology at the national and international levels." [REDACTED] is not an objective source from without petitioner's circle of colleagues and acquaintances as he worked with her in a clinic nor did he cite specifics of how the petitioner's work impacted the field. [REDACTED], the petitioner's former professor, stated that the petitioner "is a pioneer in dermatological research. Her studies have facilitated and advanced the dermatological medicines across the globe. I can unequivocally state that she is one of the premier doctors, researchers and specialist [sic] in the field." [REDACTED]'s letter reflects that he was in charge of a study on a new psoriasis drug and that the petitioner served as his assistant. As such, any original contribution resulting from this study can be attributed to [REDACTED] for directing and shaping the study instead of the petitioner for assisting with the research. In addition, his letter does not constitute evidence from those outside the petitioner's circle of colleagues and acquaintances as he served as her professor and co-worker. The petitioner also cites the letter of [REDACTED] as evidence that she made an original contribution, however, the letter states only that the petitioner "collaborated in the diagnosis and publishing" of the study and once again does not constitute objective evidence since the letter is written by a co-author of the study. These letters also refer to work done by the petitioner over ten years prior to the filing of the petition so cannot evidence the requisite sustained acclaim.

Other letters of recommendation submitted by the petitioner include one from [REDACTED], the petitioner's skin immunology professor, stating that the petitioner "executed outstanding clinical research;" [REDACTED] President of the Children's Protection Association Paraguana, stating that the petitioner's "contributions were highly valued;" and [REDACTED], the petitioner's thesis advisor, stating that the petitioner's research skills were of "high quality." With regard to these letters, the importance of the petitioner's work is not fully corroborated by evidence of the petitioner's publications and other documentation of her work. In addition, the letters discuss work done by the petitioner over ten years prior to the filing of the petition and do not evidence the requisite sustained acclaim.

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's research has earned the admiration of those providing letters of recommendation, there is no evidence that her work has had major significance in the field at large. For example, the record does not indicate the extent of the petitioner's influence on other dermatologists nationally or internationally, nor does it show that the field has somehow changed as a result of her work. In sum, the record does not establish that the petitioner's research findings have made original, major contributions to her field in a manner consistent with the requisite sustained acclaim. Accordingly, she does not meet this criterion.

*(vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

Frequent publication of research findings is inherent to success as an established scientist and does not necessarily indicate the sustained acclaim requisite to classification as an alien with extraordinary ability. Evidence of publications must be accompanied by documentation of consistent citation by independent experts or other proof that the alien's publications have had a significant impact in her field. In this case, the petitioner submitted one article in English from 1988 and seven articles in Spanish published between 1989 and 1999.

The petitioner did not submit translations for the articles written in Spanish. The regulation at 8 C.F.R. § 103.2(b)(3) requires that “[a]ny document containing foreign language ... be accompanied by a full English language translation ...” As the petitioner failed to submit any such translation, we are unable to determine her role in the writing of the article or whether the articles would constitute scholarly articles to qualify her under this criterion. We do note that the last article is dated 1999, which is seven years prior to the filing of this petition, so even if the articles had been translated, they would not evidence sustained acclaim.

The English language article was published in the American Journal of Medicine (“AJM”) in March 1988 and the petitioner does not appear to be the primary author. In addition, as with the Spanish language articles, the petitioner submitted no evidence that any of her articles have been cited by other dermatologists. The petitioner submitted a letter from ██████████ to evidence the importance of the article, however, the letter is self serving as ██████████ participated in the same study and seems to be the leading author of the article. The petitioner presented no objective evidence of the article’s importance to the field. In addition, the petitioner presented only one article and the regulations require articles in the plural. For these reasons, she does not meet this criterion.

*(vii) Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases.*

This criterion generally applies to the visual arts, however, because counsel claimed that the petitioner meets this criterion, we have considered the relevant materials as comparable evidence of the petitioner’s eligibility pursuant to the regulation at 8 C.F.R. § 204.5(h)(4). Counsel claims that the petitioner meets this criterion by virtue of her presentation of “ideas, research and results” at medical conferences. Specifically, the petitioner states that she served as a guest speaker and “showcased her research abstracts.” We emphasize again that the ten regulatory criteria at 8 C.R.F. § 204.5(h)(3) are separate and distinct from one another. Because separate criteria exist for publications by the petitioner (criterion (vi)), USCIS clearly does not view the two criteria as being interchangeable. The petitioner submitted multiple certificates of participation as a speaker or presenter for medical conferences dating from 1989 to 1992. The petitioner’s participation in these conferences predates the filing of her petition by 14 to 17 years, so cannot evidence sustained acclaim. In addition, the petitioner failed to demonstrate how participating in these conferences conveyed the necessary national or international acclaim as no information was submitted about the size of the conferences, the attendees, the selection criteria for speakers, or the acclaim due to those chosen as speakers or presenters. Also, as noted above, the petitioner submitted no evidence that her work was specially recognized at any of these conferences. Accordingly, she does not meet this criterion.

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

The petitioner initially claimed to meet this criterion through her work at the Department of Dermatology at the Central University of Venezuela from 1992 to 1995. The petitioner claimed that she performed critical roles at other hospitals across Venezuela at various times between 1987 and 2003. On appeal, the petitioner contends that she played a critical role in hospitals across Venezuela. The petitioner submitted no evidence to show that any of the hospitals, institutions, or organizations where she worked have a distinguished reputation. In response to the RFE, the petitioner submitted four brochures without the necessary translation per the regulation at 8 C.R.F. § 103.2(b)(3). Even if these brochures had been translated, evidence of the nature of the facility does not establish its reputation. One of the brochures was for the Yolanda Katz Medical Center; counsel argues in his appellate brief that the Center is a distinguished organization because “a specific community relies on its

specialized medical care.” Counsel uses a similar analysis for APRONIPA because it “provides medical care to children of low income households that would otherwise not receive medical care.” Although the Center and APRONIPA are positively impacting particular communities, the petitioner submitted no evidence regarding the Center’s or APRONIPA’s reputation. Regarding the other organization that the petitioner claims has a distinguished reputation, [REDACTED] letter states that the “The Institute of Biomedicine (Instituto de Biomedicina) is globally recognized for the research ...,” however, no objective evidence is offered to support this self-serving statement by an employee of the Institute.

In addition, the petitioner did not provide evidence that she played a leading or critical role in any of these organizations. The letter from [REDACTED] of the Yolanda Katz Medical Center, states that the petitioner served on the Board of Directors, but does not state how the petitioner played a leading role as a member of the Board. The letter from [REDACTED] stated that the petitioner was a valued volunteer for APRONIPA and that the petitioner, “with specialists in the area,” was able to further the organization’s mission. However, [REDACTED]’s letter does not state that the petitioner was solely responsible for carrying out the organization’s mission or performing in some other sort of leading or critical role for APRONIPA. [REDACTED]’s letter states that the petitioner worked as a researcher, instructor, and scientist while affiliated with the Institute of Biomedicine, however, his letter does not state that she played a leading or critical role for the Institute. Instead, his letter states that the petitioner worked with other researchers and treated patients as a doctor would be expected to do. Here, the petitioner demonstrated that she was employed by or volunteered with these organizations but failed to show that she performed in a leading or critical role instead of as a usual employee or volunteer. As the petitioner failed to show that any of the organizations with which she was affiliated have distinguished reputations or that she performed a leading or critical role for them, she does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of her field. The record in this case does not establish that the petitioner had achieved sustained national or international acclaim as a dermatologist placing her at the very top of her field at the time of filing. She is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and her 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. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.