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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: **JAN 29 2009**

LIN 06 273 52898

IN RE:

Petitioner:

Beneficiary:



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

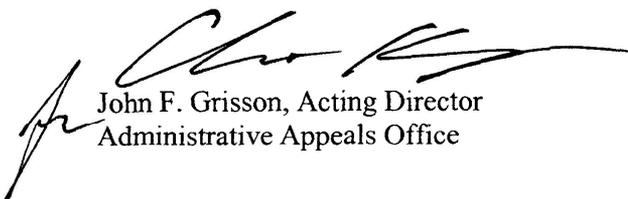
ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

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

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 as a veterinarian. The petitioner initially submitted supporting documents including four articles co-authored by the petitioner, articles citing the petitioners' co-authored articles, a copy of her PhD diploma, a letter describing the Veterinary Practitioners Association of the Philippines ("VPAP"), a picture of a VPAP award, a letter awarding the petitioner a research fellowship, an excerpt from the 2003 Philippine Veterinary Medical Association ("PVMA") convention brochure, a confirmation of presentation for the 2004 American College of Laboratory Animal Medicine ("ACLAM") conference, abstracts of papers presented at veterinary conferences, and a membership certificate for the Philippine College of Veterinary Public Health. In response to the Request

for Evidence (“RFE”) dated June 25, 2007, the petitioner submitted evidence of the selection criteria for her VPAP award, an invitation to speak at the 2003 PVMA convention, a letter accepting the petitioner’s paper for presentation at the 2003 PVMA convention, a copy of a powerpoint presentation, a copy of the bylaws for the Philippine Society for Microbiology (“PSM”), a summary of the petitioner’s dissertation, letter of admission to the PhD program and scholarship award, a European Communities directive, an invitation to give a seminar on her research with the German Federal Institute for Health Protection of Consumers and Veterinary Medicine (“BgVV”), a University of Florida Animal Care Services newsletter, and her work review. She also re-submitted some of the same documents as were included in her original submission. We address the evidence submitted and the petitioner’s contentions in the following discussion of the regulatory criteria relevant to her case. The petitioner does not claim eligibility under any criteria not addressed below.

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

The petitioner submitted evidence showing that she received a PhD from the Free University of Berlin, the 1999 Most Outstanding Veterinarian in Veterinary Research Award from the VPAP, the Georg Forster Research Fellowship from the Alexander von Humboldt Foundation, a 2003 Best Paper Presentation award at the PVMA convention, and a third place award for her poster presentation at the 2004 ACLAM convention. An educational degree does not amount to a prize or award, but is instead recognition that the student has met the prerequisites for attaining such a degree. Study is not a field of endeavor, but rather training for future employment in a field of endeavor. Even if an educational degree amounted to a prize or award, the petitioner presented no evidence that a PhD from the Free University of Berlin is nationally or internationally recognized as an award for excellence in the field. Similarly, the research fellowship does not amount to a nationally or internationally recognized prize or award for excellence in the field of endeavor. We cannot ignore the fact that research funding through competitive grants is inherent to many fields within the basic and applied sciences. Although prestigious grants may indicate the recognized value of the recipient’s research, they are not prizes or awards for documented achievements. Rather, they may recognize that the recipient’s prior findings support the viability of the proposed research. The petitioner submitted neither information regarding the [REDACTED] foundation nor information about the [REDACTED] Research Fellowship to lead us to conclude that the petitioner’s receipt of postdoctoral support funds constitutes national or international recognition for excellence in the field. The petitioner’s selection for the Fellowship represents her receipt of financial support for a research project rather than a nationally or internationally recognized prize or award for excellence in the field of endeavor.

Although evidence appears in the record regarding the petitioner’s receipt of the 1999 VPAP award and an e-mail from the “VPAP Secretariat,” information about the significance of and national or international recognition of the award and issuing organization is notably absent. The petitioner did not submit secondary evidence, such as news articles or letters from sponsoring organizations, documenting the prestige associated with this award that would indicate national or international recognition as an award for excellence in her field. The e-mail does include criteria for the award, however, the criteria do not indicate that excellence in the field is required for the award as opposed to length of practice and service to veterinary organizations and the community as a whole. The petitioner submitted a page from the PVMA conference booklet indicating the criteria used to select the best paper submitted to the conference. She submitted no evidence to indicate that this award conveys national or international recognition or that the award recognizes excellence within the field. In her response to the RFE, the petitioner states that the competition was open to all PVMA members and that 33 papers were accepted for the competition, however, she presents no evidence to support her statements. Going

on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I. & N. Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I. & N. Dec. 190 (Reg. Comm. 1972)). The 2004 ACLAM poster presentation award indicates that the petitioner received third place out of twenty entries. Again, the petitioner presents no information concerning the significance of and national or international recognition of the award, the selection criteria, or information about ACLAM. For all of the above reasons, the petitioner fails to meet this criterion.

*(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 Philippine College of Veterinary Public Health. On appeal, the petitioner submitted the membership criteria for this organization, which states that to become a diplomate member, an applicant must have presented a scientific review paper, be currently working in veterinary public health, have a veterinary degree, and pass an examination. The membership criteria do not require that applicants demonstrate an outstanding achievement and no evidence states that membership applications are judged by national or international experts in the field. The petitioner also asserted that she is a member of the Philippine Society for Microbiology and provides the bylaws concerning membership selection, but provides no objective evidence of her acceptance as a member of that organization. Even if she had provided evidence of membership, the bylaws state that anyone with training and experience in microbiology and recommended by the membership committee may become a member. The bylaws do not indicate that outstanding achievement is a prerequisite for membership nor do they specify that members of the membership committee are experts in the field.

On appeal, the petitioner submitted evidence that she became board certified by ACLAM on July 24, 2008. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Katigbak*, 14 I. & N. Dec. 45, 49 (Comm. 1971). Even if the petitioner had been board certified at the time her petition was filed, the certification requirements do not state that successful applicants will have established that they have made an outstanding achievement, but instead requires that they have published an original article in the field and complete a training program or take an examination if they have six years experience in laboratory animal medicine. In addition, the ACLAM information submitted states that applications are judged by the credentials committee, but does not state that members of the committee are national or international experts in the field. For all of the above listed 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. Citations of an alien's work by other scientists in their scholarly publications rarely meet this criterion because the citing articles are primarily about the authors' own research, not the work of the alien. The citations to the petitioner's articles do not discuss the petitioner or her work in depth and, instead, are cited to support the other authors' assertions. The petitioner submitted no other published material that she claims would qualify her under this criterion, 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.*

The petitioner claims that her published study on the use of the chemiluminescence test had a significant impact upon her field through use of the study's findings by the European Parliament and the European Council in their regulation of infectious disease and public safety. The petitioner enclosed a copy of a report "on the measures to be put in force for the control and prevention of zoonoses" and accompanying proposals. Neither the petitioner's name nor her articles appear in that report, and the petitioner presents no evidence that her work was actually used in preparation of that report. 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. at 165. The petitioner also submitted a letter from the BgVV inviting her to give a seminar regarding the findings contained in her thesis as proof that her work had an impact upon her field. That letter appears in German and the translation accompanying the letter is not certified as required by 8 C.F.R. § 103.2(b)(3). A letter from [REDACTED] confirms that the petitioner presented her findings to the BgVV, however neither the letter from the BgVV nor [REDACTED] letter provided any information about the BgVV as an organization, how a presentation of the petitioner's work would impact the organization, or how a presentation for the BgVV showed significant impact upon the field as a whole. Dr. [REDACTED] letter does state that the BgVV personnel are involved in the "European Commission salmonella control program," but he provides no details regarding this statement. The petitioner also argues that her paper on "Improving Murine Health" impacted the field through the use of the "same research methodology" at the University of Florida's Animal Care Services ("ACS"), the petitioner's current workplace. She submitted a copy of the ACS Newsletter highlighting the use of the methodology in support of her claim. The petitioner failed to show, however, how the use of her methodology in her current workplace constituted an impact upon her field as a whole.

The petitioner submitted two letters of recommendation on appeal supporting her claim of eligibility under this criterion. While letters such as these provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in her field beyond the limited number of individuals with whom she has worked directly. 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 review the letters as they relate to other evidence of the petitioner's contributions.

[REDACTED] Director of the Laboratory Animals Centre with the University of Singapore, listed the petitioner's publications and poster submissions to veterinary conferences as evidence that the petitioner operates above the field of her peers. [REDACTED] also asserts that few veterinarians are both board certified and hold a PhD. He also states that the petitioner possesses "knowledge and expertise" necessary for her position at ACS and that the quality of veterinary services for laboratory animals increased under the petitioner's leadership. [REDACTED] submitted a similar letter praising the petitioner's skills and previous research. Although [REDACTED] and [REDACTED] letters are complimentary of the petitioner's skills, they do not state that the petitioner made an original contribution of major significance to the field.

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. The petitioner submitted evidence that four articles that she co-authored have been published. Those articles are entitled: "Improving Murine Health Surveillance Programs with the Help of On-Site Enzyme-linked Immunosorbent Assay," published in the Journal of the American Association for Laboratory Animal Sciences; "Chemiluminescent Immunoassay as a Microtiter System for the Detection of Salmonella Antibodies in the Meat Juice of Slaughter Pigs," published in the Journal of Veterinary Medicine and a second German journal; "Detection of Antibodies to *S. enteritidis* in Broilers by Means of Indirect ELISA and Chemiluminescent Immunoassay (CLIA)," published in the Journal of Veterinary Medicine; and "Simplified Preparation of a Specific *S. enteritidis* Antigen for ELISA and Other Immunological Techniques," printed in the Journal of Veterinary Medicine. We note that the "Detection of Antibodies" publication was the petitioner's thesis, written in pursuit of her PhD. The petitioner's publication of her thesis supports our observation that publication of research findings is inherent to success as a researcher and does not necessarily indicate the requisite sustained acclaim. The petitioner presented no evidence regarding the standing of any of the journals in which her articles appeared such as, for example, by providing the rankings of those journals. Even if information had been submitted about these journals, the petitioner submitted information that only three of her articles have been cited in veterinary articles by ten independent groups of authors (one of her articles was not cited in the evidence provided). The petitioner's citation record does not indicate that her publications have had a significant impact upon her field. Accordingly, 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 the petitioner claims that she 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). The petitioner claims that she meets this criterion by virtue of her poster presentations at three separate veterinary conferences. 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 presentations, or the acclaim due to those whose works were presented. Also, 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 claimed to meet this criterion through her work at the ACS. The petitioner submitted no objective evidence to show that the ACS has a distinguished reputation. The petitioner did submit a letter from [REDACTED] director and attending veterinarian of ACS, stating that ACS has full accreditation and complies with all relevant laws and regulations; the letter also describes the function of the ACS. The letter does not establish, however, that the ACS has a distinguished reputation in the petitioner's field.

In addition, the petitioner did not provide evidence that she played a leading or critical role in the ACS. The letter from ██████████ that the petitioner manages the ACS diagnostic laboratory, overseeing the “assess[ment] of the health of laboratory animals and monitor[ing] the hygienic status of the different animal research equipment and facilities.” The letter from ██████████ states that the petitioner has helped expand the capacity of the diagnostic laboratory and assists with veterinary duties in other departments. A performance review signed by the petitioner’s supervisor, ██████████, indicates that the petitioner “exceeds expectations” in the diagnostic laboratory. The two letters demonstrate that the petitioner is employed by the ACS, but do not explain how the ACS is organized, how many laboratories or departments make up the ACS, or state how the diagnostic laboratory run by the petitioner impacts the ACS as a whole. Without knowing how the diagnostic laboratory relates to the ACS as a whole, we are unable to determine whether the petitioner, as head of that laboratory, performed in a leading or critical role for the ACS. As the petitioner failed to show that the ACS has a distinguished reputation or that she performed a leading or critical role for the laboratory, she does not meet this criterion.

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

Although the petitioner did not specifically claim eligibility under this criterion, she submitted information indicating that she receives an annual salary of \$76,145.60 for her work with the ACS. The petitioner fails to provide any evidence as to the average earnings of veterinarians, veterinary researchers, or heads of diagnostic laboratories to show that she commands a higher salary than others in her field. Accordingly, 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 veterinarian 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.