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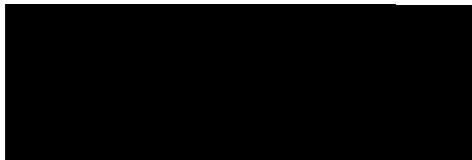
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
Washington, DC 20529-2090



U.S. Citizenship
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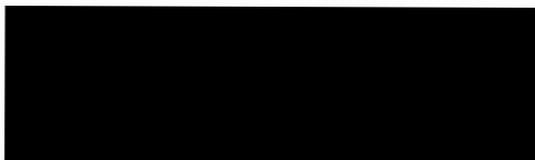


FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: SEP 02 2009
LIN 08 028 52068

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 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, the petitioner submits a personal statement and additional evidence. For the reasons discussed below, while we find that the petitioner meets two of the regulatory criteria, 8 C.F.R. § 204.5(h)(3)(v) and (vi) (relating to contributions of major significance and scholarly articles), of which an alien must meet at least three, we uphold the director’s conclusion that the petitioner has not established her eligibility for the exclusive classification sought.

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 she has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a postdoctoral fellow. Postdoctoral positions are temporary training positions that allow a biological scientist to accrue the publication record required for a permanent position. See <http://www.bls.gov/oco/ocos047.htm#training> (accessed August 6, 2009 and incorporated into the record of proceeding). While an entry-level training position does not preclude eligibility, it is the petitioner's burden to demonstrate that she compares with those at the very top of her field, including the most experienced and renowned members of that field.

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, 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.

Initially, the petitioner submitted evidence that she received a 2003 Asia/Pacific Travel Award to support her attendance at a Society of Environmental Toxicology and Chemistry (SETAC) conference. The petitioner submitted materials from SETAC's website, www.setac.org, discussing its awards designed to "recognize and honor outstanding contributions." The specific awards discussed on this page include the Global Founders Award and Rachel Carson Award, neither of which the petitioner received, and regional awards designed to "support the development and participation of students" and "the professional and technical contributions of its regular members." The record includes a September 25, 2007 letter from _____ President of SETAC Global (2004), who states that the travel awards are limited to those within seven years of obtaining their Ph.D.

The petitioner also documented another travel award in 2000 from the Council of Scientific and Industrial Research (CSIR) in India. The petitioner submitted documentation from CSIR's website, www.csir.res.in, regarding the council's distinguished reputation that fails to address the criteria for awarding travel awards. The petitioner documented a third travel grant in 1998 from the organizing committee of the Third International Symposium on Aquatic Animal Health. In 1999, the petitioner received a Best Research Paper Presenter at the 1999 20th Annual Session of the Academy of Environmental Biology organized by Andhra University where the petitioner was a Ph.D. student at the time. The petitioner also received a 1998 Best Presentation certificate at a workshop held at Bangalore University and a 1997 Best Poster Presentation at the National Symposium on Coastal and Estuarine

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

Process Around India at Andhra University. In addition, the petitioner received a Best Paper Presenter award at the International Seminar on Mangroves, Division of Marine Biology, Department of Zoology, Andhra University. Finally, the petitioner submitted a letter confirming her second rank on the Ph.D. entrance examination for Andhra University in 1996.

On June 3, 2003, the director issued a request for additional evidence (RFE). Specifically, the director requested evidence as to the significance of the above awards, including their scope, the requirements to compete and the selection criteria. In response, counsel discusses the materials from SETAC's website submitted initially and asserts that the remaining awards are lesser nationally recognized awards. The petitioner submits a letter from [REDACTED] Executive Director of SETAC North America, that discusses the petitioner's SETAC membership but not the significance of travel awards issued by SETAC.

The director noted that the petitioner had only submitted evidence regarding the SETAC travel award, which is limited to those without extensive experience, and concluded that the petitioner had not demonstrated that the above awards are consistent with national or international acclaim. In his extensive analysis, the director included a single sentence stating that travel awards and best paper awards are "routinely awarded." On appeal, the petitioner questions how the director determined which awards are "routinely awarded" and asserts that even the Nobel Prize is "routinely awarded." The petitioner concludes that the conferences where the petitioner was recognized were national; thus, the recognition must constitute lesser nationally or internationally recognized prizes or awards. The petitioner submits promotional material for a 2007 conference organized by the Academy of Environmental Biology at Ch. Charan Singh University. The press release announcing the 2007 awardees lists the best poster presentation award last, after recognition for lifetime achievements, the Archana Gold Medal, the Devaki Dutta Medal, the academy's commendation certificate, the several fellows of the academy and even the young investigator award.

The SETAC travel award is limited to those without extensive experience. As the most experienced and renowned members of the field do not compete for this award, we cannot conclude that it is indicative of or consistent with national or international acclaim. While the other conferences for which the petitioner received travel awards may be national in scope, it does not necessarily follow that their travel awards are nationally or internationally recognized. The petitioner did not submit any evidence suggesting that the most experienced and renowned members aspire to win travel awards to attend these conferences.

The materials submitted on appeal demonstrate that the Academy of Environmental Biology solicits submissions to its conferences nationally. Best presentation awards, however, are limited to conference attendees at a single conference. While the conference issues a press release announcing its awardees, the record lacks evidence that journalists in the trade or general media cover the selection of awardees. We are not persuaded that best presentation awards issued by conference organizers are indicative of or consistent with national or international acclaim.

In light of the above, the petitioner has not demonstrated 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.

Counsel initially claimed that the petitioner is an honorary/emeritus member of SETAC. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The letter from [REDACTED], however, confirms only that the petitioner has been a member since 2004. In a separate letter, [REDACTED] indicates that the petitioner's membership was granted as part of the Asia/Pacific Travel Award. In his RFE, the director requested the membership requirements for SETAC.

In response, the petitioner submitted a new letter from [REDACTED] asserting that the petitioner "was awarded honorary/Emeritus membership based on her extraordinary discoveries." He explains that SETAC members are admitted based on educational qualifications, professional activities and accomplishments in the field of environmental toxicology. Specifically, "SETAC selects honorary/Emeritus members based on the above criteria and SETAC honorary/Emeritus members are [the] top few professionals in the field of environmental sciences." The petitioner also provided a list of the membership categories from SETAC's website. While Emeritus is the highest level of membership, the information states only that they are selected and recognized on the basis of contributions to SETAC and the environmental sciences. The list does not include "honorary/Emeritus" members and the petitioner has not established that this category is the same as "Emeritus."

The director concluded that the petitioner had not submitted evidence of his membership rank in SETAC as of the filing date and that the materials for SETAC did not demonstrate that SETAC requires outstanding achievements of its members. On appeal, the petitioner asserts that while the phrase "outstanding achievements" is not used by SETAC in regards to Emeritus membership, the fact that Emeritus is the highest rank sufficiently demonstrates that outstanding achievements are required.

The petitioner does not address the director's concerns that the record does not establish that the petitioner was an Emeritus member at the time of filing, the date as of which the petitioner must establish her 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). The record does not contain a copy of the petitioner's membership card. The initial letter from [REDACTED] makes no mention of the petitioner's alleged Emeritus rank. Even if we assume that "honorary/Emeritus" rank is the same as "Emeritus" rank, [REDACTED] only asserts that the petitioner obtained this rank in his letter that postdates the filing of the appeal.

Finally, we will not presume that the highest membership rank necessarily requires outstanding achievements. It is the petitioner's burden to demonstrate the actual requirements. The petitioner did

not submit the constitution, bylaws or other official SETAC materials confirming the actual requirements for Emeritus membership or the process of selection. Thus, the petitioner has also failed to establish that Emeritus members are nominated, selected or confirmed by recognized national or international experts.

In light of the above, 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.

Initially, the petitioner submitted a letter from [REDACTED] Press Relations Officer for Andhra University, asserting that, according to a press release, the petitioner's research achievements at that university were published in *Eenadu* and *The Hindu*. [REDACTED] further asserts that the petitioner was also featured on local news channels. The petitioner also submitted an undated "brief" in *The Indian Express, Visakhapatnam* announcing the petitioner's invitation to attend a conference in Baltimore, Maryland and two foreign language briefs with no accompanying certified translation as required under 8 C.F.R. § 204.5(h)(3)(iii) and 8 C.F.R. § 103.2(b)(3). Finally, the petitioner submitted evidence that her articles have been cited.

In the RFE, the director noted that mere inclusion in footnotes could not serve to meet this criterion. The director requested translations for the foreign language briefs and the dates for any of the submitted news briefs. The director also requested evidence of the circulation or distribution for the publications covering the petitioner.

In response, the petitioner submitted a letter from [REDACTED] Bureau Chief of *The New Indian Express*, advising that the paper published the previously submitted English language brief in 1998. [REDACTED] further asserts that the newspaper is "one of the leading news paper [sic] in India and among the top 100 in the world (press release network survey)." He concludes that the paper publishes highly important and only nationally recognizable evidence and is distributed all over India. The petitioner also submitted materials about Express Publications, which publishes *The New Indian Express*, formerly *The Indian Express*, that lists 14 publication centers throughout India but does not provide the circulation or distribution of *The New Indian Express*. Other information about the publication submitted by the petitioner, however, reveals that it is "one of the most influential newspapers of the Indian subcontinent" and has a circulation of 576,200.

The petitioner included a certified translation of the 1998 brief in *Vaaritha* and a letter from [REDACTED] a staff reporter for *Vaaritha*, advising that the newspaper is a leading newspaper in Telugu, the regional language of Andhra Pradesh, that publishes "original nationally recognizable events only." The petitioner also submitted Internet materials indicating that *Vaaritha* is the second largest publication in Telugu. Similarly, the petitioner submitted a certified translation from the 1998 brief in *Andhra Bhoomi*. [REDACTED], sub-editor of this newspaper asserts that it publishes only "original

nationally recognizable news.” A listing of news publications in India from www.mediaware-infotech.com/newsletter/nl_print.htm, submitted by the petitioner, lists *Vaaritha* as third and *Andhra Bhoomi* as fourth among the top regional language dailies in the Andhra Pradesh region. Like the English news brief in *The Indian Express*, the Telugu publications report the petitioner’s invitation to attend the Maryland conference. The brief in *Vaaritha* lists no author and obtained its information from Andhra University’s press office and the brief in *Andhra Bhoomi* is credited to the Andhra University “Campus Reporter.”

The director concluded that such brief mentions could not serve to meet this criterion, that the two Telugu publications were local and that the page in *The Indian Express* included the name of a city in Andhra Pradesh, suggesting a local edition.

The petitioner does not challenge the director’s conclusions on appeal. We concur with the director. At least two of the publications are local publications and the brief in *The Indian Express* appears to have been located in a local section or edition. Without additional evidence that these stories were nationally circulated or other evidence of the significance of these publications, the petitioner cannot establish that these publications constitute professional or major trade journals or other major media. Moreover, the coverage in two of these publications appears to result from a press release from the petitioner’s own university rather than independent journalistic coverage. We further concur with the director that these brief mentions are not the type of coverage that are indicative of or consistent with national or international acclaim. Finally, coverage from 1998 is not indicative of sustained acclaim in 2007 when the petition was filed.

In light of the above, 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 2001 and 2002 letters from _____ inviting the petitioner to review manuscripts for the aquatic toxicology and ecotoxicology section of *Trends in Life Sciences*. The petitioner was also requested to review a manuscript for the *Journal of Environmental Biology* and the *Journal of Applied Aquaculture* in 2002 and 2003. The petitioner also submitted a July 21, 2003 letter from the Dean for Research and Development at the Indian Institute of Technology (IIT) Mumbai, advising the petitioner of her selection as a member of the dissertation committee for a master’s student. The petitioner was working as a scientist at IIT at the time. In addition, _____, faculty at the National Institute of Industrial Engineering (NITIE) in Mumbai and a former employee at IIT, advises that the petitioner was also invited to be an external examiner for a master’s student’s dissertation at that institute.

The director requested evidence of any acclaim derived from the above duties. In response, the petitioner submitted a letter from _____, Editor of *Ecotoxicology and Environmental Safety*, advising that the petitioner was asked to review manuscripts for this journal and other journals, which

is “evidence of her acclaim in the field” as “only the top professionals in the field are asked to serve as reviewers for top journals.” The letter does not suggest that the petitioner reviewed manuscripts for this journal prior to the date of filing. In addition, the editor of the *Journal of Environmental Biology* advises that, based on the petitioner’s “past sincere critical reviews and top expertise in her research field,” the journal continues to utilize the petitioner as a reviewer. Internet materials about this journal indicate that it is “one of the best research journals of the field, covered by most of the Abstracting and Indexing services of the world.”

The director concluded that the petitioner’s duties as a reviewer were commensurate with her education and experience and that she had not demonstrated that she had garnered any recognition from serving as a reviewer.

On appeal, the petitioner notes that reviewers are anonymous, so no acclaim accrues from these duties. The petitioner acknowledges that reviews are performed “as a service to the scientific community.” The petitioner submits electronic mail correspondence in which [REDACTED] Deputy Editor of Life Sciences for *Science* responds to the petitioner’s request for how reviewing manuscripts might demonstrate acclaim. The first part of [REDACTED] response is covered by correction tape but is still legible. In the obscured portion, [REDACTED] advises that the petitioner request a statement from the journals for which she had reviewed indicating that her work “has increased the success of the scientific enterprise and that it is of value to scientific progress.” [REDACTED] then concludes that she knows of no other way to demonstrate the “acclaim” associated with the confidential process of reviewing. Dr. [REDACTED] placement of “acclaim” in quotes in her response suggests that she is not confirming that participating in the process is, in fact, indicative of acclaim.

The petitioner also submits materials about *Ecotoxicology and Environmental Safety* from www.elsevier.com advising that authors should provide the names of five potential reviewers with their submission, including three from other countries. This information indicates that the journal is interested in obtaining the names of independent reviewers but does not suggest that manuscript review is indicative of or consistent with acclaim in the field. By submitting materials from this website, the petitioner is effectively adding this website to the record of proceeding. The website also includes a list of frequently asked questions for reviewers at www.elsevier.com/wps/find/reviewershome.reviewers/faq (accessed August 6, 2009 and incorporated into the record of proceeding). The first question is “Why Should I Review?” In the response, [REDACTED] states that reviewing manuscripts “is part of belonging to the scientific community.”

The evidence submitted under this criterion, or any criterion, must be indicative of or consistent with sustained national or international acclaim. *Accord Yasar v. DHS*, 2006 WL 778623 *9 (S.D. Tex. March 24, 2006); *All Pro Cleaning Services v. DOL et al.*, 2005 WL 4045866 *11 (S.D. Tex. Aug. 26, 2005). We cannot ignore that scientific journals are peer reviewed and rely on many scientists to review submitted articles. Thus, peer review is routine in the field and, by itself, is not indicative of or consistent with sustained national or international acclaim. Without evidence that sets the petitioner apart from others in her field, such as evidence that she has reviewed manuscripts for a journal that

credits a small, elite group of referees, 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.

Finally, while not discussed by the director, we acknowledge the evidence that the petitioner served on a dissertation committee for a Master's student at IIT. As stated above, the petitioner was employed at IIT at the time. We are not persuaded that serving on a committee at one's own institution is indicative of or consistent with sustained national or international acclaim. Even serving as an external reviewer at NITIE at the request of a former IIT employee does not demonstrate the petitioner's recognition outside of Mumbai.

In light of the above, the petitioner has not established 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 record documents that the petitioner authored several scientific articles and presented her work at scientific conferences. She submitted guidelines for the Western Indian Ocean (WIO) Region using her work as the basis for safe cadmium, copper, lead and zinc levels for shrimp larvae, evidence of citations of this work and letters from members of her field and other individuals. The petitioner also submitted additional materials in response to the director's RFE. The director concluded that while the petitioner's work was original, she had not provided objective evidence of the petitioner's significant impact in the field. On appeal, the petitioner asserts that the director failed to consider the evidence submitted.

The petitioner's field, like most science, is research-driven, and there would be little point in publishing research that did not add to the general pool of knowledge in the field. 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. To be considered a contribution of major significance in the field of science, it can be expected that the results would have already been reproduced and confirmed by other experts and applied in their work. Otherwise, it is difficult to gauge the impact of the petitioner's work.

In addition, the regulation at 8 C.F.R. § 204.5(h)(3)(vi) provides a separate criterion for scholarly articles. As such, scholarly articles cannot also serve as presumptive evidence to meet this criterion if the statutory requirement for extensive evidence and the regulatory requirement that an alien meet at least three separate criteria are to have any meaning.

According to the petitioner's Curriculum Vitae, she obtained her Ph.D. from Andhra University in 2000. She then worked at IIT as a scientist through April 2005. From 2005 through 2007, she worked

as a scientific advisor to BCR Marine. As of the date of filing, the petitioner was working as postdoctoral fellow at the Oregon Health and Science University (OHSU).

██████████ the petitioner's Ph.D. mentor at Andhra University, asserts that while studying for her Ph.D., the petitioner "played a key role" in a project funded by the Indian Council of Agricultural Research (ICAR). During her work on this project, according to Dr. ██████████ the petitioner conducted a survey in the east coast of India, estimating the nutritional values in diseased shrimps that are affected by different pathogens and discovering that diseased shrimp were using an alternative metabolic pathway to produce and consume nutrients due to stressed conditions.

██████████ a principal scientist at IIT, asserts that he oversaw the petitioner's postdoctoral research studies at IIT. Specifically, ██████████ explains that the petitioner developed a lead toxicity biomarker (the enzyme Na^+ , K^+ -ATPase according to other references) pollution indicator, using it to calculate the maximum concentration levels (lethal and sub-lethal) for lead without negative effects on larval shrimp. ██████████ further explains that prior to this work, shrimp farmers used coastal waters without considering heavy metals because they cannot be separated by filters and are only detectable with chemical reactions. According to ██████████ the Andhra Pradesh Shrimp Seed Research Center recognized the useful nature of the petitioner's work and educated and trained aqua farms all over India. ██████████ further states that the petitioner also discovered that contaminated shrimp are recoverable, becoming uncontaminated after being placed in clean/healthy water. According to ██████████ this finding allows shrimp farmers to detect heavy metals in their catches, correct them and, thus, sell them on the international market.

In response to the director's RFE, the petitioner submitted a letter from ██████████ a scientific officer at ICAR. ██████████ confirms that the petitioner's work impacted the aquaculture industry in India by influencing and improving Indian law. Specifically, ██████████ explains that the petitioner's work was used as a basis for the Coastal Aquaculture Authority Compendium and Guidelines published in 2006. ██████████ lists seven sections of the compendium that are either derived directly from the petitioner's work in whole or in part. Some tables in the compendium, according to ██████████ list the specific results from the petitioner's studies. As stated above, the record also contains the Proposed WIO Regional Guidelines that cite the petitioner's work for the standards set forth in those guidelines.

██████████ asserts that the petitioner designed waste management strategies and waste water processing bioreactors for food, mining and aquaculture industries used in India today. Specifically, according to ██████████ the petitioner used microbes utilizing chlorinated compounds, phosphates, sulphates and other chemicals as a good/energy source, now utilized by BCR Marine Methods Pvt., Ltd. ██████████ further explains that the petitioner designed a two stage process to treat the waste water from Uma Foods, one of India's largest bakeries, that uses a bioreactor to neutralize organic materials and a second reactor to adsorb dyes and flavors. The record contains letters from both BCR Marine Methods Pvt., Ltd. and Uma Foods acknowledging their use of the petitioner's designs.

In addition to the above evidence of the application of the petitioner's work, the petitioner submitted several significant citations that do far more than merely acknowledge the petitioner's articles as previous work in the field. Specifically, research teams at the Chinese Cultural University in Taiwan, National Taiwan University, Zhejiang University in China and Anna University in India all explicitly state that their own results were obtained utilizing methods described by the petitioner.

the petitioner's supervisor at OHSU, asserts that at OHSU, the petitioner "aided in the isolation of *in situ* bacteria that oxidize manganese." While discusses the future potential of this work, at issue are the contributions that had already impacted the field as of the date of filing. See 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l. Comm'r. 1971). Nevertheless, his letter confirms that the petitioner continues to contribute to her field at some level.

In light of the above, we withdraw the director's concern that the record lacked objective evidence of the petitioner's impact in the field. Based on the submission of several types of evidence documenting the application of the petitioner's work *in the aggregate*, we find 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.

As stated above, the petitioner has authored several published articles and presented her work at international conferences for which she has been recognized with travel awards and best presentation awards. She also presented evidence that her work is consistently cited, with several research teams citing her work as the sole source of the methodology used to obtain their own results. The director concluded that the petitioner's publication record was not indicative of or consistent with sustained national or international acclaim. On appeal, the petitioner reviews some of the more significant citations of her work.

While we concur with the director that publication alone does not always serve to meet this criterion in a field where publication is expected of professionals in the field, we are satisfied that the petitioner's publication record is sufficient to meet this criterion.

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 herself as a researcher 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. The evidence indicates that the petitioner shows talent as a postdoctoral fellow, but is not persuasive that the petitioner's achievements set her significantly above almost all others in 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.