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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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Services

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[Redacted]

FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: SEP 30 2009  
SRC 07 260 55985

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:

[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).

*M. Deedrick*  
Perry Rhew  
Chief, Administrative Appeals Office

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

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. More specifically, the director found that the petitioner had failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, counsel argues that the petitioner meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry 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, 60898-99 (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.

This petition, filed on August 28, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a biomedical researcher. At the time of filing, the petitioner was working as a postdoctoral Visiting Fellow in the Endocrinology and Reproduction Research Branch, National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH). The petitioner worked under the supervision of [REDACTED] Chief and Head of the Section on Molecular Endocrinology. In the summer of 2008, the petitioner joined the laboratory of [REDACTED], Assistant Professor of Pediatrics, Division of Newborn Medicine, Children's Hospital Boston, Harvard Medical School.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The petitioner has submitted evidence pertaining to the following criteria under 8 C.F.R. § 204.5(h)(3).<sup>1</sup>

*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 a certificate stating that he received a "2001 Student Travel Award" from the Society for In Vitro Biology (SIVB) at the "Congress on In Vitro Biology June 16 – 20, 2001." The petitioner also submitted an article from the July-September 2001 issue of the SIVB newsletter, *In Vitro Report*, reflecting that he was among several "student award" recipients at the 2001 Congress on In Vitro Biology. There is no evidence from the SIVB showing the criteria for determining a recipient's eligibility for this award. Nevertheless, we cannot conclude that the petitioner's receipt of funding to offset travel expenses is tantamount to his receipt of a nationally or internationally recognized award for excellence in the field. The petitioner's selection for an award limited by its terms to students is not an indication that he is among "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Receipt of such an award offers no meaningful comparison between the petitioner and experienced professionals in the field who have long since completed their educational studies. The petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time.

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

The petitioner submitted a July 7, 1997 letter from the Council of Scientific and Industrial Research (CSIR), Human Resource Development Group, Examination Unit stating: "This is to inform you that you have qualified the above Examination for consideration for Award of Junior Research Fellowship in LIFE SCIENCES under the CSIR Fellowship Schemes. The Award of Fellowship will be subject to your satisfying the eligibility conditions . . . ." We cannot conclude that successfully passing a standardized test and qualifying for a "Junior Research Fellowship" constitutes a nationally or internationally recognized prize or award for excellence in the field of endeavor. Further, we note that eligibility for the preceding fellowship was limited to students seeking to pursue graduate studies. University study is not a field of endeavor, but rather training for future employment in a field of endeavor. The petitioner's receipt of educational funding from the CSIR is not an indication that he is among "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

The petitioner submitted a December 6, 2001 letter from [REDACTED] International Association for Plant Tissue Culture & Biotechnology (IAPTC&B), stating:

I would like to congratulate you on . . . being selected as one of the recipients of an IAPTC&B Fellowship to attend the 10<sup>th</sup> IAPTC&B Congress.

\* \* \*

Please confirm that you accept the fellowship and will personally present your poster at the Congress.

Your fellowship will cover the registration fee (which includes the opening reception, three boxed lunches, the banquet, and a copy of the proceedings) and a shared hotel room . . . .

The petitioner also submitted a listing reflecting that he was among 84 "Fellowship Recipients" at the 10<sup>th</sup> IAPTC&B Congress. There is no evidence from the IAPTC&B showing the criteria for determining a recipient's eligibility for this fellowship or other documentary evidence which demonstrates that the fellowship is recognized beyond the awarding entity itself and therefore commensurate with a national or international award. Nevertheless, we cannot conclude that the petitioner's receipt of funding to attend this conference is tantamount to his receipt of a nationally or internationally recognized award for excellence in the field.

The petitioner submitted a Certificate of Achievement from the International Crops Research Institute for the Semi-Arid Tropics (ICRISAT) Training and Fellowships Program for his "successful completion of Apprenticeship in Cellular and Molecular Biology Division [CMBD] . . . from 20 May to 01 July 1996." The petitioner also submitted a page from the May 31, 1996 issue of the *ICRISAT Happenings* newsletter identifying him as an "apprentice" and stating that he was "doing his summer project work with CMBD, studying molecular biology techniques." The petitioner's successful completion of a six-week apprenticeship program is not tantamount to his receipt of a nationally or internationally recognized prize or award for excellence in his field of endeavor. The petitioner's completion of this apprenticeship program offers no meaningful

comparison between him and experienced professionals in the field who have long since completed their molecular biology training.

In response to the director's request for evidence, the petitioner submitted a certificate from the American Society for Biochemistry and Molecular Biology (ASBMB) issued to him "in recognition of . . . participation in the ASBMB Graduate/Postdoctoral Travel Award Program in San Diego, CA, April 4-5, 2008." The petitioner received this certificate subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider this evidence in this proceeding. Nevertheless, there is no evidence showing that this certificate is a nationally or internationally recognized award for excellence, rather than simply an acknowledgment of his participation in the program.

The petitioner's response also included a May 14, 2007 e-mail stating: "On behalf of the Sigma-Aldrich Team, we would like to thank you for stopping by our booth at Experimental Biology and taking our Gene Hunt Challenge. We are pleased to inform you that you are the lucky winner of our \$3,000 Scientific Travel Award. . . . Thank you for playing!" There is no evidence from the Gene Hunt Challenge organizer showing the criteria for determining a recipient's eligibility for this travel award. Further, the phrases "you are the lucky winner" and "Thank you for playing!" suggest that winning this award was based on a game of chance rather than excellence in the field of endeavor. In this instance, the petitioner has not established that winning the Sigma-Aldrich Gene Hunt Challenge Scientific Travel Award is tantamount to his receipt of a nationally or internationally recognized award for excellence in the field.

The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally *recognized* in the field of endeavor and it is his burden to establish every element of this criterion. In this case, there is no evidence showing that the petitioner's awards had a significant level of recognition beyond the presenting organizations. Accordingly, the petitioner has not established 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.*

In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted documentation showing that he is a “Fellow/Student Associate” member of the Endocrine Society and a lifetime member of the Biotechnology Society of India. The petitioner also submitted evidence showing that he is a regular member of both the American Association for the Advancement of Science and the American Physiological Society. The submitted documentation includes general information about the preceding organizations, but the record does not include evidence (such as membership bylaws) showing their admission requirements. In this case, there is no evidence showing that the Endocrine Society, Biotechnology Society of India, the American Association for the Advancement of Science, or the American Physiological Society require outstanding achievements of their members, as judged by recognized national or international experts in the petitioner’s field or an allied one. Accordingly, 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.*

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, 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>2</sup>

The petitioner initially submitted internet search results from Google Scholar and ISI Web of Science demonstrating a single cite to his published articles. In response to the director’s request for evidence, the petitioner submitted additional search results from Google Scholar and ISI Web of Science and copies of three articles that cite to his work. This documentation reflects that the petitioner’s body of work has been cited approximately ten times. Regarding the scientific articles that merely reference the petitioner’s published work, we note that the plain language of this regulatory criterion requires that the published material be “about the alien.” In this case, the articles citing the petitioner’s work are primarily about the authors’ work, not the footnoted material identifying the petitioner. With regard to this criterion, a footnoted reference to the alien’s work without evaluation is of minimal probative value. Further, we note that the articles citing the petitioner’s work similarly referenced numerous other authors. The submitted citations to the petitioner’s work do not discuss the merits of his work, his standing in the field, any significant impact that his work has had on the field, or any other aspects of his work so as to be considered published material about the petitioner as required by this criterion. Instead, these citations are more relevant to the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(vi) and will be addressed there.

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<sup>2</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.

In light of the above, the petitioner has not established 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 petitioner submitted several letters of recommendation discussing his research contributions. On appeal, counsel argues that the director failed to adequately review the content of the recommendation letters. We cite representative examples here.

Chief and Head of the Section on Molecular Endocrinology, Endocrinology and Reproduction Research Branch, NICHD, NIH, states:

In his work on Oncology and Experimental therapeutics at University of South Florida, [the petitioner] investigated the inhibition of histone deacetylases (HDACs) as a new strategy in human cancer therapy. The cellular models that he utilized in these studies include human breast cancer and leukemia cells. An additional major focus of research was to determine the molecular mechanisms by which histone modifications, e.g., acetylation, de-methylation and phosphorylation, molecular determinants in human breast cancer and leukemia cells. The effects of histone deacetylase inhibitors on Her-2, AKT and c-Raf in breast cancer cells, BCR ABL and FLT-3 in leukemia, as well as the effect on the levels of c-FLIP and TRAIL death receptors in leukemia cells, were investigated. Histone deacetylase (HDAC) inhibitors are emerging as an exciting new class of potential anticancer agents for the treatment of solid and hematological malignancies. These drugs used have shown impressive anticancer activity *in vivo* with remarkably little toxicity in preclinical studies and are currently in phase I clinical trial.

[The petitioner's] expertise has been significantly advanced since his participation in the NIH program, where his experience was comprehensively broadened through conducting studies in the interdisciplinary areas involving endocrinology, molecular biology, and cellular biology. At the National Institutes of Health, [the petitioner] is investigating on a novel testicular gene, the Gonadotropin-regulated testicular RNA helicase (GRTH/Ddx25). He first demonstrated that GRTH is a major regulator of spermatogenesis in the prevention of testicular germ cell apoptosis. Subsequently, [the petitioner] demonstrated that GRTH is an integral component of mRNP particles, a phosphoprotein, which is essential for testicular germ cells development in our gene targeted mouse model. He studied the subcellular localization and phosphor-modification of GRTH and demonstrated two GRTH protein species that are differentially distributed in cellular compartment of mouse testis. [The petitioner's] elucidation of the regulation of pro- and anti-apoptotic protein expression by GRTH in gonadal cells has shed new insights into the understanding of the mechanism involved in the male reproduction.

While the petitioner's superiors at the University of South Florida assigned him to investigate the inhibition of histone deacetylases (HDACs) as a new strategy in human cancer therapy, there is no evidence showing that he conceived this treatment strategy or that the intellectual property rights for

the drugs involved in the phase I clinical trial were primarily attributable to his original work. Moreover, there is no evidence demonstrating that the clinical trials achieved significant success or that the petitioner's work was otherwise indicative of an original scientific contribution of major significance in his field.

Section on Molecular Endocrinology, NICHD, NIH, states:

In NIH, [the petitioner] is investigating on a testicular novel gene Gonadotropin-regulated testicular RNA helicase (GRTH/Ddx25). He first demonstrated that GRTH is a master regulator of spermatogenesis in the prevention of testicular germ cell apoptosis. Subsequently, [the petitioner] demonstrated that GRTH is an integral component of mRNP particles, a phosphoprotein, which is essential for testicular germ cells development in our gene targeted mouse model. He studied on the subcellular localization and phosphor-modification of GRTH and demonstrated two GRTH protein species that are differentially distributed in cellular compartment of mouse testis. . . . He also demonstrated participation of cAMP-PKA in the post-translational modification of the 61 kDa GRTH species. [The petitioner] also helped in developing micro array analysis for germ cell specific RNA expression profiles. [The petitioner's] elucidation of the regulation of pro- and anti-apoptotic protein expression by GRTH in gonadal cells sheds new insights on the understanding of the mechanism involved in the male reproduction.

Throughout these projects, [the petitioner] has developed himself to a knowledgeable and capable reproduction biologist and molecular endocrinologist. [The petitioner] is a co-author of several papers in this subject and some other papers are in the process for publication. [The petitioner] . . . was also selected to present his study to the International Annual meeting of the Endocrine Society (2007) in Toronto, Canada this June.

In the same manner as Assistant Professor and Interim Chief, Division of Pediatric Hematology/Oncology, University of Florida, discusses the petitioner's conference presentations and publications. states:

[The petitioner] worked at the prestigious National Institutes of Health where he has made seminal contributions to studies on characterization of the function and regulation of Gonadotropin-Regulated Testicular Helicase (GRTH), an enzyme that is critical for the progression of sperm maturation. . . . For this project [the petitioner] was exposed to cutting edge gene expression screening technologies as they became available and as a result acquired an advanced level of expertise in the genomics field. He developed innovative strategies for understanding the process of sperm maturation. He has been invited to present evidence of his work at a large number of international scientific meetings and conferences including the Keystone Meeting in Colorado, America Society for Biochemistry and Molecular Biology in San Diego, and Endocrine Society in Toronto, Canada and San Francisco, CA. . . . His work . . . was accepted for publication in top ranking journals like *Journal of Biological Chemistry* and *Human Molecular Reproduction*.

With regard to the petitioner's co-authorship of research papers and his conference presentations, we find that his published and presented work is far more relevant to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for authorship of scholarly articles and original contributions of major significance, USCIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless. We will fully address the petitioner's published and presented work under the next criterion.

Associate Professor of Pharmacology and Adjunct Research Dean of the Federal University of Santa Maria, Brazil, states:

[The petitioner's] inventive research and development work in the field of the Cancer therapy for the treatment of those suffering from Leukemia and Breast Cancer has led to path breaking therapy predictions for these diseases. For the first time he used the combination of the drugs (LBH589 and 17-AAG) in acute myeloid leukemia (AML) and chronic myelogenous leukemia (CML) cells.

\* \* \*

[The petitioner] has developed himself to a knowledgeable and capable reproduction biologist and molecular endocrinologist . . . . [The petitioner's] elucidation of the pro- and anti- anti-apoptotic protein expression by GRTH in gonadal cells has a great impact on the understanding of the mechanism involved in the male reproduction.

Executive Director for the Office of Sponsored Research Administration and Regents Distinguished Professor of Biology, Savannah State University, Georgia, states:

During his studies [the petitioner] found LBH 589, a novel Cinnamic Hydroxamic Acid Analogue was effective in Leukemia and Breast Cancer. Due to his initial efforts, now this drug is in Phase I clinical studies in patients with refractory hematologic malignancies.

At the NIH, [the petitioner] investigated the aspects related to the function of Gonadotropin Regulated Testicular RNA Helicase (GRTH) which include studies on genes that are concerned to apoptotic events and fertility at the meiosis in GRTH null mouse. Since *GRTH/Ddx25* was crucial for fertility in male mice, he initiated studies to determine the relevance of this gene to human spermatogenesis and demonstrated GRTH as a master regulator of spermatogenesis which prevents testicular germ cell apoptosis. His study also provided evidence for a *GRTH/Ddx25* gene mutation at G727A that might be involved in male infertility of some patients with idiopathic non-obstructive azoospermia. This mutation leads to defective phosphorylation of GRTH protein. These findings led to new openings in field of male sterility in humans.

[REDACTED] Rx Biosciences, Ltd., Maryland, states:

[The petitioner] worked on understanding apoptosis in Gonadotropin Regulated Testicular RNA helicase (*Ddx25/GRTH*) Knock out mice model. He studied mouse in vivo experimental model and used an advanced gene expression profiling technology to study the regulation of sperm maturation. [The petitioner] has performed excellent work in GRTH project and is a coauthor of a JBC [Journal of Biological Chemistry] paper in this subject. His investigation revealed GRTH/Ddx25 is a master regulator of spermatogenesis which prevents testicular germ cell apoptosis. In our collaboration with [the petitioner] in genetic studies in normal and infertile Japanese patients, sequencing results showed gene mutation at G727A might be involved in male infertility and defective GRTH phosphorylation. Apart from being successful molecular biologist, [the petitioner] developed micro array analysis for germ cell specific RNA expression profiles proving himself expert in advanced gene expression profiling technology.

[REDACTED] Department of Urology, Kanazawa University, Japan, states:

I first met [the petitioner] during our days at NICHD, NIH . . . where he and I worked together on characterization of the Gonadotropin Regulated Testicular RNA Helicase knockout mice model. He investigated the aspects related to the function of Gonadotropin Regulated Testicular RNA Helicase (GRTH) which include studies on genes that are concerned to apoptotic events and fertility at the meiosis in GRTH null mouse.

While the petitioner's research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or postdoctoral research, in order to be accepted for graduation, publication, presentation, or funding, must offer new and useful information to the pool of knowledge. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance in the field.

Assistant Professor of Molecular Medicine, Cleveland Clinic Lerner College of Medicine, states:

[The petitioner] has made recognizable advances in the area of Oncology and Experimental therapeutics. [The petitioner] has investigated inhibition of histone deacetylases (HDACs) as a new strategy in human cancer therapy. His research includes exploring novel approaches to target mechanisms of resistance against anti-cancer agents. The cellular models utilized in these studies include human breast cancer and leukemia cells. He investigated the mechanism of cytotoxicity of the combinations of HDAC inhibitors and HSP 90 inhibitors, or HDAC inhibitors and novel BCR-ABL kinase inhibitors, against chronic myelogenous leukemia cells refractory to treatment due to mutations or amplifications of BCR-ABL. A similar combination of HDAC inhibitor and FLT-3 kinase inhibitor was also evaluated against acute myeloid leukemia (AML) cells. These studies are very important to determine

how chaperone biology and chromatin modifications can be therapeutically exploited against human breast cancer and leukemia.

In the area of Reproductive Biology, [the petitioner's] efforts have contributed to the characterization of a mutation in infertile patients, in the gene encoding Gonadotropin Regulated Testicular Helicase (*GRTH/Ddx25*), which might be involved in male sterility. He is currently investigating the Knock-out mouse model of this enzyme. GRTH is a critical enzyme for the progression of spermatogenesis. His work demonstrated that GRTH acts as a master regulator of spermatogenesis which prevents testicular germ cell apoptosis.

With regard to the witnesses of record, many of them discuss the promise of the petitioner's research and what may one day result from his work, rather than how his past research already qualifies as original contributions of major significance in the field. A petitioner cannot file a petition under this classification based on the expectation of future eligibility. *Matter of Katigbak*, 14 I&N Dec. at 49.

Assistant Professor of Medicine, Harvard Medical School, and Associate Biologist, Brigham & Women's Hospital, states:

In 2008 [the petitioner] joined laboratory to expand his training in hematology, specifically, in neonatal hematology.

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In his current work, [the petitioner] is studying the cellular and molecular mechanisms of platelet homeostasis in neonates. He is focused on defining the cellular and molecular mechanisms leading to different rates of platelet production by adult or neonatal megakaryocytes (platelet producing cells residing in bone marrow). Findings from these studies will eventually lead to more appropriate therapies for thrombocytopenic neonates, and would also be applicable to the treatment of thrombocytopenia following cord blood transplants, since the transplanted cells are neonatal in origin. Such a task will surely bring substantial benefits to the nation as a whole.

Assistant Professor of Pediatrics, Division of Newborn Medicine, Children's Hospital Boston, Harvard Medical School, states:

[The petitioner] joined our laboratory this Summer, and it immediately became evident what an outstanding addition he was. His extraordinary expertise was demonstrated when he quickly began to characterize differences in gene expression between neonates and adults. He is currently characterizing growth factors and microenvironmental signals required for full megakaryocyte maturation in neonates, and is establishing the mechanisms that uncouple megakaryocyte DNA replication and cell division, leading to polyploidy. His findings opened the door to novel studies to understand the reasons underlying the predisposition of neonates to develop severe thrombocytopenia.

██████████, Associate Professor in the Department of Pediatrics, Harvard Medical School, and ██████████ Chair in Pediatric Pulmonology at Children's Hospital Boston, states:

Presently, [the petitioner] has taken the challenging task to study neonatal thrombocytopenia at prestigious Harvard Children's Hospital Boston which is the largest pediatric research center and one of the top healthcare providers worldwide. Neonatal Thrombocytopenia is a common disease among newborn babies admitted to a neonatal intensive care unit (affecting one third of all patients).

██████████ and ██████████ discuss the petitioner's work on research projects that post-date the filing of this petition. As discussed previously, a petitioner must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider the petitioner's research projects that commenced subsequent to the petition's filing date in this proceeding.

██████████ letter further states: "[The petitioner's] work has been published in the primary journals in the field, including *Journal of Biological Chemistry*, *Molecular Human Reproduction*, *Proc. Amer. Assoc. Cancer Research*, *Blood* and *Proc. Amer. Soc. Clin. Oncology* as peer-reviewed papers." The petitioner's field, like most science, is research-driven, and there would be little point in publishing or presenting 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. While the evidence indicates that the petitioner has performed admirably on the research projects to which he was assigned and that he is a talented researcher with potential, the evidence of record does not establish that he has already made original scientific contributions of major significance in his field. For example, the petitioner's evidence does not establish that his work has had a substantial national or international impact, nor does it show that his field has significantly changed as a result of his work.

In this case, the letters of recommendation are not sufficient to meet this regulatory criterion. 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 (Commr. 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 from experts supporting the petition 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 795-796. Thus, the content of the experts' 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 are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of a biomedical researcher who has sustained national or international acclaim. Without evidence showing that the petitioner's work has been unusually influential, highly acclaimed throughout his field, or has otherwise risen to the level of original contributions of major significance, we cannot conclude that he 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.*

We withdraw the director's finding that the petitioner meets this regulatory criterion. The petitioner submitted evidence of his co-authorship of articles appearing in publications such as *Journal of Biological Chemistry*, *Plant Cell Biotechnology and Molecular Biology*, and *Molecular Human Reproduction*. The petitioner also submitted evidence showing that he coauthored papers for presentation at scientific conferences such as the American Society of Hematology's 45<sup>th</sup> Annual Meeting and the Endocrine Society's 89<sup>th</sup> Annual Meeting. We note that authoring scholarly articles is inherent to scientific research.<sup>3</sup> For this reason, we will evaluate a citation history or other evidence of the impact of the petitioner's articles when determining their significance to the field. For example, numerous independent citations for an article authored by the petitioner would provide solid evidence that other researchers have been influenced by his work and are familiar with it. On the other hand, few or no citations of an article authored by the petitioner may indicate that his work has gone largely unnoticed by his field. In this case, the petitioner submitted evidence showing that his body of published and presented work has been independently cited less than a dozen times. While these citations demonstrate a small degree of interest in his published articles, they are not sufficient to demonstrate that his articles have attracted a level of interest in his field consistent with sustained national or international acclaim.

In light of the above, the petitioner has not established that she meets this criterion.

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

The petitioner asserts that his work has been displayed at scientific conferences. The petitioner's field, however, is not in the arts. The plain language of this regulatory criterion indicates that it is intended for visual artists (such as sculptors and painters) rather than for biomedical researchers such as the petitioner. The ten criteria in the regulations are designed to cover different areas; not every criterion will apply to every occupation. The petitioner's conference presentations are more relevant to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi), a criterion that has already been addressed. Nevertheless, in the fields of science and medicine, acclaim is generally not

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<sup>3</sup> For "Biological Scientists," the Department of Labor's Occupational Outlook Handbook, 2008-2009 (accessed at <http://www.bls.gov/oco/>), states that a "solid record of published research is essential in obtaining a permanent position involving basic research." See <http://data.bls.gov/cgi-bin/print.pl/oco/ocos047.htm>, accessed on September 15, 2009, copy incorporated into the record of proceeding. The handbook also provides information about the nature of employment as a postsecondary teacher (professor) and the requirements for such a position. See <http://data.bls.gov/cgi-bin/print.pl/oco/ocos066.htm>, accessed on September 15, 2009, copy incorporated into the record of proceeding. The handbook expressly states that faculty members are pressured to perform research and publish their work and that the professor's research record is a consideration for tenure. Moreover, the doctoral programs training students for faculty positions require a dissertation, or written report on original research. *Id.* This information reinforces USCIS's position that publication of scholarly articles is not automatically evidence of sustained national or international acclaim; we must consider the research community's reaction to those articles.

established by the mere act of presenting one's work at a conference or symposium along with dozens of other participants. Nothing in the record indicates that the presentation of one's work is unusual in the petitioner's field or that invitation to present at venues where the petitioner's work appeared was a privilege extended to only a few top researchers. Many professional fields regularly hold conferences and symposia to present new work, discuss new findings, and to network with other professionals. These conferences are promoted and sponsored by professional associations, businesses, educational institutions, and government agencies. Participation in such events, however, does not elevate the petitioner above almost all others in his field at the national or international level.

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

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

At issue for this criterion are the position the petitioner was selected to fill and the reputation of the entity that selected him. In other words, the position must be of such significance that the alien's selection to fill the position, in and of itself, is indicative of or consistent with national or international acclaim.

The petitioner submitted letters of recommendation discussing his work at the H. Lee Moffitt Cancer and Research Center at the University of South Florida, NIH, and Children's Hospital Boston (Harvard Medical School). As discussed, the petitioner's work at Children's Hospital Boston post-dates the filing of the petition and will not be considered in this proceeding. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. While the petitioner has performed admirably on the research projects to which he was assigned, there is no evidence showing that his temporary roles as a postdoctoral Visiting Fellow and a postdoctoral research associate were leading or critical for the preceding institutions. We note that the petitioner's postdoctoral positions were designed to provide specialized research experience and training in his field of endeavor.<sup>4</sup> The petitioner's evidence does not demonstrate how his subordinate positions differentiated him from the other researchers employed at his institutions, let alone their tenured staff/faculty and principal investigators. A comparison of the petitioner's positions with those of his superiors (such as [REDACTED] and [REDACTED] and of the other individuals offering letters of support indicates that the very top of his field is a level above his present level of achievement. For example, there is no indication that the petitioner has served as a principal investigator and initiated his own research projects. The documentation submitted by the petitioner does not establish that he was responsible for the preceding institutions' success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim.

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<sup>4</sup> "Biological scientists with a Ph.D. often take temporary postdoctoral research positions that provide specialized research experience." See <http://data.bls.gov/cgi-bin/print.pl/oco/ocos047.htm>, accessed on September 15, 2009, copy incorporated into the record of proceeding.

In this case, we concur with the director's finding that the petitioner has failed to demonstrate his receipt of a major, internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the national or international acclaim necessary to qualify as an alien of extraordinary ability. 8 C.F.R. § 204.5(h)(3). 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. 8 C.F.R. § 204.5(h)(2).

Review of the record does not establish that the petitioner has distinguished himself 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 is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a national or international level. 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 AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See, e.g., Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

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.