

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

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

B2

[Redacted]

FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: FEB 20 2010
SRC 07 185 52527

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 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).

Perry Rhew
Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, on May 29, 2009, 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 as a journalist. 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).

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.

At the time of original submission, the petitioner completed Part 5 and Part 6 of Form I-140, Petition for Alien Relative, which included questions regarding the petitioner's occupation and job title. We note that the petitioner indicated in Part 5 that his occupation is a journalist and in Part 6 that his job title is a sports journalist. We further note that at the time of the filing of petition, the petitioner submitted documentation as it related to his journalistic activities in sports. However, on appeal, the petitioner submitted documentation showing that his journalistic activities have now switched to covering the United Nations. We will not narrow the petitioner's field to the limited field of "sports" journalism, rather than the field of journalism as a whole.

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.

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).¹

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

The petitioner claims eligibility for this criterion based on the following submitted documentation:

1. Journalist of the Year – 2005, from the Nepal International Taekwondo Federation (NITF), on August 17, 2006;
2. Best Journalist Award, from the All Nepal Football Association (ANFA), on February 21, 2006;
3. Achievement Certificate for Best News/Media Coverage, from the International Open Friendship Taekwondo Championships (IOFTC), June 18-20, 2004, in Portland, Oregon;
4. Letter of Appreciation from NITF on an unspecified date;
5. Certificate of Appreciation from IOFTC for the 3rd IOFTC on June 18-20, 2004;
6. Certificate for participating at the 4th IFTC on July 2-3, 2005, in Hong Kong, China;
7. Appreciation Certificate from Bheri Taekwonso Association for contributions at the 3rd National Taekwondo Championships on October 8-10, 2004, at Nepalgunj Banks, Nepal;

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

8. Certificate from the Nepal Shooting Association for participating at the National Shooting Competition;
9. Certificate from NITF for participating at the 2nd International Taekwondo Course on November 24-26, 2006;
10. Certificate of Appreciation from IOFTC for participating at the 5th IOFTC on October 6-7, 2006, in Portland, Oregon; and
11. Appreciation Award from Dhapasi Taekwondo Dojang at the 1st Indo-Nepal Friendship Taekwondo Championship on January 28, 2006, at Kathmandu, Nepal.

Regarding items 1-3, the petitioner submitted website pages for NITF, ANFA, and IOFTC. While a review of these website pages reflects background information for these organizations, they fail to provide any information regarding the awards received by the beneficiary. In addition, the petitioner failed to submit any other documentation regarding the prestige and stature associated with winning one of these awards so as to establish their national or international acclaim. We note here that the petitioner submitted on appeal an article from The Kathmandu Post, dated July 6, 2009, regarding the Journalist of the Year Award for 2008 where the petitioner was mentioned as a past award winner in 2005. As the article was published after the date of the filing of the petition, May 29, 2007, we will not consider this article as evidence in this proceeding. Eligibility must be established 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). A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r. 1998). That decision further provides, citing *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981), that we cannot "consider facts that come into being only subsequent to the filing of a petition." *Id.* at 176.

Furthermore, the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires the petitioner's "lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." Regarding item 1, the record fails to reflect that NITF is in the petitioner's "field of endeavor." According to NITF's website:

Nepal ITF is established in 1998, and in this nine years period, we prove ourselves as one of the best sports organization of Nepal. Almost 15,000 players, hundreds of coaches and thousands of officials are in the umbrella of Nepal ITF. We assure the quality training of real Taekwon-Do that originated by the father of Taekwon-Do General Choi Hong Hi.

The petitioner failed to establish how his award from NITF is an award in his field of endeavor of journalism. Based on the submitted documentation, NITF was founded and specializes in the training of taekwondo and not journalism. While NITF's award recognizes the petitioner for promoting taekwondo through his journalistic work, the petitioner failed to submit documentation establishing that NITF is in the petitioner's field of endeavor of journalism, and therefore qualifies the petitioner's eligibility for this criterion. Likewise, regarding items 2 and 3, the petitioner's awards for "Best Journalist of the Year" from ANFA and "Best News/Media Coverage" from

IOFTC fail to reflect awards from the petitioner's "field of endeavor" of journalism. Instead, they reflect awards from organizations specializing in football and taekwondo and not journalism.

Regarding items 4-11, the petitioner's certificates reflect evidence of appreciation rather than prizes or awards. Similarly, the petitioner's certificates reflect evidence of participation and contribution rather than prizes or awards.

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, regarding items 1-3, there is no evidence demonstrating that the awards from any of the sports organizations are nationally recognized awards in the petitioner's field of endeavor of journalism. Further, regarding items 4-11, there is no evidence demonstrating that the certificates are nationally or internationally recognized prizes or awards for excellence.

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.

The petitioner claims eligibility for this criterion based on the following submitted documentation:

1. A letter, dated March 29, 2007, from [REDACTED] Nepal Press Union (NPU), stating that the petitioner is a "special category member of Union [and] is the number one sports journalist of Nepal";
2. A letter, dated December 1, 2006, from [REDACTED] Federation of Nepalese Journalists (FNJ), stating that the petitioner is an active member of FNJ;
3. A letter, dated October 16, 2004, from [REDACTED], Danfe Yuba Club (DYC), stating that the petitioner is an active member;
4. A Certificate from the International Association of Lions Club (IALC) stating that the petitioner is a charter member; and
5. A letter, dated October 15, 2005, from [REDACTED], Nepal Red Cross (NPC), stating that the petitioner was a volunteer.

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.

In response to the director's request for additional evidence pursuant to 8 C.F.R. § 103.2(b)(8), counsel claimed the following:

1. FNJ – Applicants for the membership of this organization have to go through certain standard that would evaluate the quality of the individual professionalism;
2. DYC – Extends its membership to the individuals who have made substantial contribution to the welfare of youth via sports and sports journalism; and
3. IALC – A charter membership is awarded to the individuals with exceptional reputation whose membership to the Club would substantially benefit it.

However, counsel failed to submit any documentary evidence supporting his assertions. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. 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 petitioner failed to submit any documentary evidence of the membership requirements for any of the above-listed associations. We note that in [REDACTED] letter, while he indicates that the "Nepal press union is the nationwide association of democratic journalists," he fails to provide any information regarding membership requirements with NPU. In addition, the petitioner failed to submit evidence demonstrating that his various membership levels for any of the organizations require outstanding achievement, such as "special category member," "active member," and "charter member."

We will not presume exclusive membership requirements from the general reputation of a given association, as the association's reputation may derive from its size, the number of symposiums it hosts, or other factors independent of the exclusive nature of its membership. As the record does not contain the bylaws or other official documentation of the associations' membership criteria, we cannot evaluate whether the petitioner's memberships are qualifying. Furthermore, the petitioner failed to submit any documentary evidence establishing that membership in NPU, FNJ, DYC, IALC, or NPC requires outstanding achievement as judged by recognized national or international experts.

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 translations.

At the time of the original filing of the petition, the petitioner claimed:

A number of newspapers and journals [that] have mentioned of my professional work. See the newspaper articles. (Please note that a number of newspapers are in Nepali. Due

to time constraints, the translations of the articles are not ready yet. I will submit the articles and the corresponding translations once it is complete.)

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be “about” the petitioner relating to his work. *Compare* 8 C.F.R. § 204.5(i)(3)(i)(C) relating to outstanding researchers or professors pursuant to section 203(b)(1)(B) of the Act, which only requires published material about the alien’s work. Articles authored by the petitioner, or articles which cite the petitioner’s work, are not articles about the petitioner relating to his work. Nonetheless, a review of the record fails to reflect that the petitioner ever submitted “a number of newspapers and journals” about him and his work. While the petitioner claimed that he would submit the articles and corresponding translations, the record reflects that he failed to do so. 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)). In addition, while the record contains samples of the petitioner’s journalistic work, as already noted, articles authored by the petitioner or articles which credit the petitioner’s work, do not meet the plain language of this regulatory criterion.

Furthermore, in response to the director’s request for evidence pursuant to 8 C.F.R. § 103.2(b)(8), counsel also claimed that “[a] number of newspapers and journals have mentioned of his professional work.” Again, a review of the record fails to reflect that the petitioner ever submitted newspapers and journals that were “about” him and his work. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner’s burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. at 534 n.2; *Matter of Laureano*, 19 I&N Dec. at 3 n.2; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506. In response to the request for evidence, counsel submitted one article, [REDACTED], Kathmandu Post, December 23, 2003, where the petitioner is mentioned one time for being “mistreated by [REDACTED] and another ANFA member.” A review of this article reflects that it is not about the petitioner but ANFA’s Ganesh Thapa apologizing for his behavior in mistreating the petitioner.

On appeal, counsel submitted a previously mentioned article, [REDACTED], [REDACTED], July 6, 2009, where the petitioner is mentioned as a previous winner of the award in 2005. However, as the article was published after the date of the filing of the petition, we will not consider this article as evidence in this proceeding. *Matter of Katigbak*, 14 I&N at 49. Furthermore, we note that counsel submitted newspaper articles that were authored by the petitioner after the filing of the petition. Regardless, these self-authored articles are not articles about the petitioner relating to his work.

In addition, we cannot ignore that the statute requires the petitioner to submit “extensive documentation” of sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provide that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). We do not find evidence, where the petitioner is mentioned one time in an article, the article is not about him, and

article was published over three years prior to the filing of the petition, is sufficient to establish the level of acclaim required for this highly restrictive classification.

Accordingly, 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.

On appeal, counsel claims the petitioner's eligibility for this criterion by stating:

[The petitioner's] extensive body of work demonstrates his original contributions to the field of journalism. As evidence, herein, [the petitioner] was chosen as Nepal's Official Journalist for a number of international sporting events. Journalism is by nature original in that the journalist reports facts, but how those facts are delivered is completely under his or her control. Technique and craft in writing is not a static and quantifiable entity, but rather an artistic attribute. [The petitioner] won accolades as a top journalist, awards we can infer were the result of exciting, dynamic reporting. His designation as the Official Journalist to represent Nepal at international events substantiates that his work was highly desirable and sought after.

While counsel cites to the petitioner's awards, these factors have already been considered under 8 C.F.R. § 204.5(h)(3)(i). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for awards, USCIS clearly does not view this criterion 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.

In addition, the petitioner claims eligibility for this criterion based on a multitude of recommendation letters. For example, the letter from [REDACTED] Drishti National Weekly, stated:

Notably, his work in the field of sports journalism is exceptional and has surpassed the traditional standard of reporting sports of all sorts. His professional articles and coverage on different national and international sports events have attracted not only the national readers but also the readers from the neighboring countries.

In addition, [REDACTED] Nepal Sports Development Association, stated:

[The petitioner] has been co-ordinating [sic] use to promote the players as well as conveying the players voice to the people of Nepal through his profession. He has been encouraging Players and always use his pen about the right of players.

However, the reference letters fail to identify a specific, original contribution of major significance made by the petitioner. In this case, the reference letters submitted by the petitioner are not sufficient

to meet this regulatory criterion. We note that the above letters are all from individuals who have worked or interacted with the petitioner. While such letters can provide important details about the petitioner's credentials, they cannot form the cornerstone of a successful extraordinary ability claim. The statutory requirement that an alien have "sustained national or international acclaim" necessitates evidence of recognition beyond the alien's immediate acquaintances. *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). Further, USCIS may, in its discretion, use as advisory opinion statements 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 of support from the petitioner's personal contacts is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. Thus, the content of the writers' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of any immigration petition are of less weight than preexisting, independent evidence or original contributions of major significance that one would expect of an individual who has sustained national or international acclaim at the very top of the field.

In this case, the petitioner failed to submit preexisting, independent evidence of original contributions of major significance. The letters reiterate the petitioner's awards, summarize his work history, and describe the various sporting events covered by the petitioner. However, in evaluating the reference letters, they do not specifically identify how he has made an original contribution that has influenced his field of journalism. Letters from independent references who were previously aware of the petitioner through his reputation and who have applied his work are far more persuasive than letters from independent references who were not previously aware of the petitioner. Ultimately, evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim. Vague, solicited letters from local colleagues or letters that do not specifically identify contributions or how those contributions have influenced the field are insufficient. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009).

In this case, the petitioner is a journalist and is expected to cover events and write about them in newspapers and magazines. While the record contains examples of the petitioner's articles, they do not reflect original contributions of major significance. The petitioner failed to establish how his authored articles distinguish him from other journalists who cover national and international events and then write about those events in newspapers, magazines, and journals. In addition, we are not convinced by counsel's claim that the petitioner's "extensive body of work demonstrates his original contributions to the field of journalism." The routine duties of the petitioner, or any journalist, are to cover events and report about them in newspapers and magazines. The fact that the petitioner has written articles about events he has covered does not demonstrate original contributions of major significance but reflects the petitioner's routine job duties as a journalist. Without extensive documentation showing that the petitioner's work has been unusually influential, highly acclaimed

throughout his field, or has otherwise risen to the level of original contribution of major significance, we cannot conclude that he meets this criterion.

Accordingly, the petitioner has not established 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.

The petitioner submitted the following documentation:

1. *Brazil for the Sixth Time*, Nepal National Weekly (NNW), May 28, 2006;
2. *A Let-Down for Nepali Cricket*, NNW, June 12, 2005;
3. *Referees Mired in Controversies*, NNW, September 25, 2005;
4. *Players in Crime*, NNW, July 2, 2006;
5. *Ganesh Thapa*, NNW, September 4, 2005;
6. *Impact of 'October 5' in Sports*, NNW, December 12, 2004;
7. *A Platform in America*, Koseli, April 21, 2007.
8. *Sports Associations Elections Kick Off*, NNW; unidentified publication, unidentified date;
9. *The Credit Lost in SAG*, unidentified publication, unidentified date;
10. *Eyes on Foreign Channels*, unidentified publication, unidentified date;
11. *Our Quality is Best of All*, unidentified publication, unidentified date; and
12. *Activeness in Busy Time*, unidentified publication, unidentified date.

We note here that the petitioner also submitted articles relating to his work with Kantipur Daily for the United Nations. However, as the articles were published after the date of the filing of the petition, we will not consider these articles as evidence in this proceeding. *Matter of Katigbak*, 14 I&N at 49.

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vi) requires authorship of “scholarly articles.” Generally, scholarly articles are written by and for experts in a particular field of study, are peer-reviewed, and contain references to sources used in the articles. In this case, the petitioner’s articles are journalistic in nature and do not contain the characteristics of a scholarly article. The petitioner’s articles appeared mainly in the NNW whose audience is the general population in Nepal. As there is no evidence demonstrating that the petitioner’s articles were peer-reviewed, contain any references to sources in the articles, or were otherwise considered “scholarly,” they are insufficient to meet this criterion.

Notwithstanding the above, regarding items 1-6, the petitioner submitted information from www.kantipuronline.com reflecting that NNW has a circulation of 37,000. In addition, the petitioner submitted a letter from [REDACTED] stating that “Nepal is a largest selling Nepalese language newsmagazine with a circulation of 30,000 copies per week.” The petitioner also submitted information from www.pressrelease.com regarding the background and history of the press in Nepal. While the website indicates that Kantipur Publications “had the largest circulation

by the twenty-first century,” it fails to specifically address or mention NNW. In addition, we note that while www.kantipuronline.com claims a circulation of 37,000 for NNW, it also claims that Kantipur Daily is the most widely circulated Nepali broadsheet with a circulation of 250,000. When comparing the circulation statistics between Kantipur Daily and NNW, Kantipur Daily has a circulation of seven times the amount of NNW. We are not convinced, based on the documentation submitted by the petitioner, that NNW is a professional or major trade publication or other major media. Further, the submission of a principal publication’s statistics on its derivative publications does not establish that those derivative publications are comparable to major trade publications or other major media.

Regarding item 7, the petitioner failed to submit any documentary evidence establishing the Koseli is a professional or major trade publication or other major media. In addition, regarding items 8-12, the petitioner failed to submit full English language translations in accordance with 8 C.F.R. § 103.2(b)(3) by not submitting the name of the publication and the date.

Regardless, for the reasons stated above, the petitioner failed to submit any evidence of his authorship of scholarly articles, rather the petitioner submitted his authorship of journalistic articles. In addition, the petitioner failed to establish that his articles appearing in NNW and Koseli are professional or major trade publications or other major media.

Accordingly, the petitioner failed to establish 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.

At the time of the original filing of the petition, the petitioner claimed eligibility for this criterion by stating:

I was selected as an “official journalist” for various tournaments and championship due to my leading role in my profession and in the sports itself. The Nepal Shooting Association had selected me as an official journalist to attend the ISSF World Cup Bangkok – 2004 held in Bangkok, Thailand in February of 2004. As I mentioned above, I was selected as an official journalist by the International Taekwondo Federation for the events held in Hong Kong and USA. I was also selected for SAARC (South Asian Committee) sports tournaments held [in] Bangladesh and Sri Lanka.

On appeal, counsel claims the petitioner’s eligibility for this criterion based on his selection “as sole Official Journalist representing Nepal for international sporting events” and “nomination by the

Nepal Olympic Committee to serve as the Official Sports Journalist of Nepal to cover the 10th South Asian Games held in Colombo, Sri Lanka, in 2006.”

The petitioner submitted copies of his press passes along with several reference letters demonstrating his attendance at several international sporting events. For example, the letter from [REDACTED], National Sports Council, stated:

Due to his extra-ordinary professional character, already he had been Nominated as an only one official journalist of Nepal in Prestigious Seven International Tournaments.

Moreover, the letter from [REDACTED] Nepali Post, stated:

[The petitioner] has represented Nepal as an official journalist of Nepal’s in seven different international sport events.

Further, the letter from [REDACTED] Nepal Olympic Committee, stated:

Due to his extra ability of sports journalism, Nepal Olympic committee nominated to [the petitioner] as an official sports journalist of Nepal for 10th South Asian Games, which was held in Colombo, Sri Lanka from August 18 to 28, 2006.

While the job verification and recommendation letters praise the petitioner for his employment history as a journalist, the letters do not demonstrate that he performed in a leading or critical role for organizations or establishments that have a distinguished reputation. While the petitioner was selected as the “official journalist of Nepal” to cover several international sporting events, the record fails to reflect how his position was leading or critical to Kantipur Publications, Utsarga Publications, or Drishti Media. We are not persuaded that the petitioner’s routine occupational duties as a journalist in covering and reporting at several international sporting events is commensurate with the acclaim required by this highly restrictive classification. Further, there is no evidence showing that the organizations for which the petitioner served had a distinguished reputation, such as the Nepal Olympic Committee and the Nepal Shooting Association. We note that while the petitioner submitted the previously mentioned information from NITF, that information was from NITF’s own website, and the petitioner failed to submit any independent, objective evidence establishing NITF’s distinguished reputation. In this case, the documentation submitted by the petitioner does not establish that he was responsible for the success or standing of the organizations to which he was appointed to a degree consistent with the meaning of “leading or critical role” and indicative of sustained national or international acclaim.

We note here that on appeal, counsel refers to the petitioner’s role as a United Nations correspondent for Kantipur Publications. However, as the petitioner’s correspondent position occurred after the filing of the petition, we cannot consider this evidence in this proceeding. *Matter of Katigbak*, 14 I&N at 49.

Accordingly, the petitioner has not established that he meets this criterion.

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). While the petitioner has earned the respect and admiration of the individuals offering recommendation letters, the petitioner failed to establish that he has amassed a record of accomplishment which places him among that small percentage at the very top of his field. In addition, the petitioner failed to establish that an alien who has extraordinary ability in journalism is eligible under one of the classifications pursuant to section 203(b)(1)(A)(i) of the Act.

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 petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.