U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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[redacted]

DATE: JUN 14 2012 Office: NEBRASKA SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

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

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (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 requisite extraordinary ability through extensive documentation and sustained national or international acclaim. The director also found that the petitioner had failed to establish that she is among that small percentage at the very top of her field of endeavor.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, counsel asserts that the petitioner meets the categories of evidence at 8 C.F.R. §§ 204.5(h)(3)(iii), (iv), and (vi). For the reasons discussed below, the AAO will uphold the director's decision.

I. Law

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* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.* and 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that an alien demonstrate his or her sustained acclaim and the recognition of his or her achievements in the field. Such acclaim and achievements must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through meeting at least three of the following ten categories of evidence:

> (i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
>
> (ii) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields;
>
> (iii) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation;
>
> (iv) Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought;
>
> (v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
>
> (vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media;
>
> (vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases;
>
> (viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;
>
> (ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or

> (x) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion.[1] With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)). The court also explained the "final merits determination" as the corollary to this procedure:

> If a petitioner has submitted the requisite evidence, USCIS determines whether the evidence demonstrates both a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2), and "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(3). Only aliens whose achievements have garnered "sustained national or international acclaim" are eligible for an "extraordinary ability" visa. 8 U.S.C. § 1153(b)(1)(A)(i).

Id. at 1119-20.

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this matter, the AAO will apply the two-step analysis dictated by the *Kazarian* court.

II. Analysis

A. Evidentiary Criteria

This petition, filed on August 4, 2010, seeks to classify the petitioner as an alien with extraordinary ability as a public health specialist. At the time of filing, the petitioner was working "as a contracted medical epidemiologist in the [redacted]" at the Centers

[1] Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

for Disease Control and Prevention (CDC). The petitioner has submitted documentation pertaining to the following categories of evidence under 8 C.F.R. § 204.5(h)(3).[2]

> *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.*

The AAO withdraws the director's finding that the petitioner meets this regulatory criterion. 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. 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.[3]

The petitioner submitted a March 2, 2006 article entitled [redacted] in the [redacted] but the author of the article was not identified as required by the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii). Further, the article is about a malaria study being conducted in Gauteng, South Africa rather than the petitioner herself. The article only briefly mentions the petitioner as one of two contact persons designated to provide information regarding the study. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be "about the alien." *See, e.g., Accord Negro-Plumpe v. Okin,* 2:07-CV-820-ECR-RJJ at *1,*7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles about a show are not about the actor). *Compare* 8 C.F.R. § 204.5(i)(3)(i)(C), which requires evidence "about the alien's work." It cannot be credibly asserted that the submitted article is "about" the petitioner. Further, there is no documentary evidence showing that *HST Bulletin* qualifies as a professional or major trade publication or some other form of major media.

The petitioner submitted an [redacted] article entitled [redacted] posted at www.news24.com. The article, which includes only two sentences mentioning the petitioner, is not about her. Instead, the article is about a female student at Pretoria Technikon in South Africa suspected of contracting Sars while visiting her parents in China. Further, there is no documentary evidence showing that www.news24.com qualifies as a form of major media.

The petitioner submitted an [redacted] article entitled "[The petitioner] Joins Bacterial Diseases Branch" posted on the website of the National Center for [redacted] and [redacted] but the author of the article was not identified as required by the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii). Further, there is no documentary

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[2] On appeal, the petitioner does not claim to meet any of the regulatory categories of evidence not discussed in this decision.

[3] 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.

evidence showing that the NCSVED's website qualifies as a professional or major trade publication or some other form of major media.

In light of the above, the petitioner has not established that she meets the plain language requirements of this regulatory 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 a May 13, 2010 letter from with the CDC, stating that he has worked with the petitioner in South Africa and in the United States. further states:

> [The petitioner] remains one of the foremost experts on these "hot diseases" and continues to be sought after by world governments and the World Health Organization (WHO) to help investigate and control new and re-emergent diseases anytime and anywhere they occur. [The petitioner] serves on CDC and World Health Organization committees responsible for detection and control of these diseases.

With regard to comments, there is no documentary evidence showing that the petitioner's service on CDC and WHO committees involved her "participation, either individually or on a panel, as a judge of the work of others" in the field.

The petitioner submitted a May 9, 2010 letter from stating that he coauthored an article with the petitioner and that she invited him to run a health module for a course that she was coordinating at the University of further states: "I invited [the petitioner] to join our organizing committee for the 12th International Symposium on Veterinary Epidemiology and Economics precisely because of her broad medical influence and reputation within the medical public health community."

The limited information provided in the preceding letters from does not identify the specific work judged by the petitioner or the dates of her participation. Merely submitting letters claiming that the petitioner served on various committees without specifying the work she actually judged is insufficient to establish eligibility for this regulatory criterion. 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'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Moreover, if testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The petitioner submitted a June 18, 2010 letter from South Africa,

and University of Pretoria. The AAO notes that the petitioner is a graduate of the University of Pretoria.[4] states:

> On the basis of her expertise in , we invited [the petitioner] to judge the presentations of research conducted by field epidemiologist trainees in the South African Field Epidemiology and Laboratory Training Programme at our first scientific meeting in Johannesburg in 2009. The work she evaluated was conducted and presented by masters level public health professionals from backgrounds in medicine, veterinary science, public health and medical science.
>
> [The petitioner] was also invited to evaluate seminars developed by physicians completing their Diploma in Tropical Medicine and Health at the University of Pretoria from 2004 through 2007.

The petitioner submitted a June 18, 2010 e-mail message from an Editorial Assistant for *American Journal of Tropical Medicine and Hygiene* thanking the petitioner for reviewing manuscript entitled "Seroprevalence Survey of Chikungunya Virus in Bagan Pachor, Malaysia."

The submitted documentation demonstrates that the petitioner judged research presentations by epidemiologist trainees, evaluated seminars developed by students completing their Diploma in Tropical Medicine and Health at her alma mater, and peer-reviewed a single manuscript for *American Journal of Tropical Medicine and Hygiene* as of the petition's filing date. The AAO affirms the director's determination that this documentation satisfies the plain language requirements of the regulation at 8 C.F.R. § 204.5(h)(3)(iv).

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

The director discussed the evidence submitted for this criterion and found that the petitioner had failed to submit documentary evidence demonstrating that her original scientific contributions were of major significance to her field. On appeal, the petitioner does not contest the director's findings for this criterion or offer additional arguments. The AAO, therefore, considers this issue to be abandoned. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO). Accordingly, the petitioner has not established that she meets this regulatory criterion.

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

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[4] The record includes a May 21, 2010 letter from indicating that she supervised the petitioner's graduate work at the the petitioner's work for the National Institute for Communicable Diseases, and an investigation conducted by the petitioner relating to a typhoid fever outbreak.

The petitioner submitted four pages from the March 2008 issue of Page 4 of the EIS Bulletin lists an "Epi-Aid" issued by the petitioner in 2007 entitled " " but the petitioner failed to submit a copy of her complete article and evidence showing that the article was published in a professional or major trade publication or some other form of major media. The petitioner also submitted a document coauthored with entitled "An investigation into the role of the 18-month measles vaccination in measles vaccination coverage in South Africa," but there is no evidence showing that it was published in a professional or major trade publication or some other form of major media.

The petitioner submitted evidence of her from a Mountain Lion Carcass" in *Clinical Infectious Diseases*, "The burden of imported malaria in Gauteng Province" in *South African Medical Journal*, "Surveillance of Malaria in Gauteng Province" in *Communicable Diseases Surveillance Bulletin*, and "Tularemia – Missouri, 2000-2007" in *Morbidity and Mortality Weekly Report*. The record demonstrates that petitioner has coauthored four published articles as of the petition's filing date and, thus, the AAO affirms the director's determination that this documentation satisfies the plain language requirements of the regulation at 8 C.F.R. § 204.5(h)(3)(vi).

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

The director discussed the evidence submitted for this criterion found that the petitioner failed to submit documentary evidence demonstrating that she has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. On appeal, the petitioner does not contest the director's findings for this criterion or offer additional arguments. The AAO, therefore, considers this issue to be abandoned. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885, at *9. Accordingly, the petitioner has not established that she meets this regulatory criterion.

Summary

The petitioner has failed to demonstrate her receipt of a major, internationally recognized award, or that she meets at least three of the ten categories of evidence that must be satisfied to establish the minimum eligibility requirements necessary to qualify as an alien of extraordinary ability pursuant to 8 C.F.R. § 204.5(h)(3).

B. Final Merits Determination

The AAO will next conduct a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2); and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(3). *See also Kazarian*, 596 F.3d at 1119-20.

Regarding the documentation submitted for the category of evidence at 8 C.F.R. § 204.5(h)(iii), all three of the petitioner's submissions were deficient in at least two of the regulatory requirements such as not identifying the author, not being about the petitioner, or not being accompanied by evidence that they were published in major media. The petitioner has not established that the evidence submitted for the category of evidence at 8 C.F.R. § 204.5(h)(iii) is indicative of or consistent with sustained national acclaim or a level of expertise indicating that she is one of that small percentage who have risen to the very top of her field. Further, there is no evidence showing that the petitioner has had material published about her subsequent to 2007. The statute and regulations, however, require the petitioner to demonstrate that her national or international acclaim as a public health specialist has been *sustained*. *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). The documentation submitted for 8 C.F.R. § 204.5(h)(3)(iii) is not commensurate with *sustained* national or international acclaim as of the filing date of the petition.

With regard to the documentation submitted for the category of evidence at 8 C.F.R. § 204.5(h)(iv), the nature of the petitioner's judging experience is a relevant consideration as to whether the submitted evidence is indicative of her recognition beyond her own circle of collaborators. *See* [redacted]. As previously discussed, the petitioner was invited by her [redacted] to evaluate the research presentations of epidemiologist "trainees" in the South African Field Epidemiology and Laboratory Training Program. [redacted] also states that the petitioner evaluated seminars developed by students completing their Diploma in Tropical Medicine and Health at her alma mater, [redacted] The petitioner has not established that reviewing the work of "trainees" at the request of her former supervisor and evaluating the work of students completing their Diploma in Tropical Medicine and Health at the request of her alma mater are commensurate with sustained national or international acclaim at the very top of the field of endeavor. *See* 8 C.F.R. §§ 204.5(h)(2) and (3). The AAO notes that the submitted evidence is not indicative of recognition beyond the petitioner's former supervisor and alma mater. Further, the petitioner failed to submit evidence demonstrating that she judged acclaimed epidemiologists, medical professors, research scientists, or physicians in the field rather than those in the early stages of their career. *Cf., Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994); 56 Fed. Reg. at 60899 (USCIS has long held that has long held that even athletes performing at the major league level do not automatically meet the statutory standards for immigrant classification as an alien of "extraordinary ability"). Evaluating the work of accomplished physicians or professors as a member on a national panel of experts is of far greater probative value than evaluating the work of students or trainees. The documentation submitted by the petitioner does not establish that her level of judging is commensurate with sustained national or international acclaim at the very top of the field.

The petitioner also submitted evidence demonstrating that she peer-reviewed a single manuscript for *American Journal of Tropical Medicine and Hygiene* as of the petition's filing date. The petitioner has not established that her level and frequency of peer review is commensurate with sustained national or international acclaim at the very top of her field of endeavor. The AAO notes that peer review of manuscripts is a routine element of the process by which articles are selected for publication in scientific journals. Normally a journal's editorial staff will enlist the assistance of

numerous professionals in the field who agree to review submitted papers. It is common for a publication to ask several reviewers to review a manuscript and to offer comments. The publication's editorial staff may accept or reject any reviewer's comments in determining whether to publish or reject submitted papers. Without evidence that sets the petitioner apart from others in her field, such as evidence that she has received and completed numerous independent requests for review from a substantial number of journals or served in an editorial position for a distinguished journal, the AAO cannot conclude that her level and frequency of peer review is commensurate with sustained national or international acclaim at the very top of the field. For instance,

In regard to the petitioner's original research findings as discussed in the reference letters submitted for the category of evidence at 8 C.F.R. § 204.5(h)(3)(v), the director found that they did not rise to the level of contributions of "major significance" in the field. Demonstrating that the petitioner's work was "original" in that it did not merely duplicate prior research is not useful in setting the petitioner apart through a "career of acclaimed work." H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). That page (59) also says that "an alien must (1) demonstrate sustained national or international acclaim in the sciences, arts, education, business or athletics (as shown through extensive documentation)..." Research work that is unoriginal would be unlikely to secure the petitioner a master's degree, let alone classification as a public health specialist of extraordinary ability. To argue that all original research is, by definition, "extraordinary" is to weaken that adjective beyond any useful meaning, and to presume that most research is "unoriginal." In this case, the record does not contain sufficient evidence that the petitioner's original work had major significance in the field, let alone an impact consistent with being nationally or internationally acclaimed as extraordinary.

Regarding the documentation submitted for the category of evidence at 8 C.F.R. §§ 204.5(h)(vi), the petitioner has documented her co-authorship of only four published articles at the time of filing. The petitioner has not established that her limited publication record sets her apart through a "career of acclaimed work." H.R. Rep. No. 101-723, 59. Moreover, the citation history of the petitioner's scholarly articles is a relevant consideration as to whether the evidence is indicative of the petitioner's recognition beyond her own circle of collaborators. *See Kazarian*, 596 F. 3d at 1122. In the present matter, there is no citation evidence indicating that others in the field have frequently cited the petitioner's scholarly articles in their work. The documentation submitted by the petitioner fails to demonstrate that her scholarly articles have attracted a level of interest in her field commensurate with sustained national or international acclaim at the very top of the field.

With regard to the documentation submitted for the category of evidence at 8 C.F.R. § 204.5(h)(3)(viii), the director found that the petitioner had not established that she has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. The evidence submitted by the petitioner does not establish that her temporary training positions as a student and resident at the as a student and resident at the and as student of the

the CDC were leading or critical to those institutions, or otherwise commensurate with sustained national or international acclaim at the very top of her field.

Ultimately, the evidence in the aggregate does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. The petitioner, a with the CDC, relies on three articles that are not primarily about her or that have not been shown to have been published in major media, a single instance of peer review for *American Journal of Tropical Medicine and Hygiene*, reviewing the work of "trainees" at the request of her former supervisor, evaluating the work of students completing their Diploma in Tropical Medicine and Health at the request of her alma mater, evidence documenting her co-authorship of only four published articles, the affirmation of her colleagues that her work was important to the institutions where she trained, and the general praise of her references.

The AAO notes that many of the petitioner's references' credentials are far more impressive than those of the petitioner. For example, states:

> I am the State Epidemiologist in Missouri, heading the Section of Epidemiology for Public Health Practice, located in Jefferson City, Missouri. As the lead public health scientist for our state agency and a renowned Ph.D. epidemiologist who has worked both domestically and internationally with experience being elected the Chair of the largest epidemiology organization in North America (the American Public Health Association Epidemiology Section), I am well qualified . . . .

states:

> I am an in Townsville, in North Eastern Queensland Australia. JCU is renowned for its focus on tropical and travel medicine. I maintain ties with the University of Pretoria, South Africa through an extraordinary professor's appointment. . . . I have published widely on environmental and infectious disease epidemiology topics. I am also recognized as a specialist in public health and epidemiology within the European Union and Australia.

states:

> I am an with Centers for Disease Control and Prevention (CDC), and an of the Epidemic Intelligence Service Officers Program.
>
> Last year I returned from Pretoria, South Africa where I served for six years as the of the Under my leadership we moved the program from a small office with 7 staff and a budget of $5 million in 2004, to a program with more than 100 staff, 4 regional offices throughout South Africa . . . and a budget of over $300 million per year. I was awarded commendations by and my Center for 2006, 2007, 2008 and 2009, respectively for our efforts in managing this process of change.

I currently serve as the Senior Advisor to the Department of Health and Human Services for health systems strengthening and capacity building around the world.

Branch, Office of Public Health, National Park Service, U.S. Department of the Interior.

states:

> I . . . am the The is designed to train field epidemiologists and public health laboratorians for leadership positions in the South African national and provincial health services and the National Health Laboratory Services (NHLS). Over the past 25 years, Field Epidemiology Training Programmes (FETP) have been established in over 33 countries worldwide. . . . I am also an extraordinary lecturer at the School of Health Systems and Public Health, University of Pretoria, coordinating the Diploma in Tropical Medicine and Health course, one of only two such courses accredited in the country. I am a member of the South African Expanded Programme on Immunization Task Group and am a member of the Directors Board of the African Field Epidemiology Network. I have 20 years' experience in public health and disease control.

Health Branch, Division of Global Migration and Quarantine, Centers for Disease Control and Prevention. also serves as the

states:

> I am the Branch at CDC. I am an epidemiologist, board certified in pediatric infectious diseases and an I currently [the petitioner] as a contracted medical epidemiologist in the

states:

> I am the
> I am a board certified infectious disease physician, an epidemiologist, and an expert on public health and vector-borne infectious diseases. I had the pleasure of [the petitioner] during her 2 years as an in our branch at CDC.

states:

> I . . . am the , an international nongovernmental organization founded in 1993 as a result of the Commission on Health Research for Development and the recommendations of its report.
>
> * * *
>
> I am a public health physician and epidemiologist and I have worked in rural medicine, pen-urban and urban health care and environmental health services, as well as in academic public health education and research ethics training. I remain an University and I have published widely in various areas in applied research and public health. I was the of the University of Pretoria's School of Health Systems and Public Health, the School in which [the petitioner] qualified as a public health medicine specialist.

While the petitioner need not demonstrate that there is no one more accomplished than herself to qualify for the classification sought, it appears that the very top of her field of endeavor is far above the level she has attained. In this case, the petitioner has not established that her achievements at the time of filing were commensurate with sustained national or international acclaim as a public health specialist, or being among that small percentage at the very top of the field of endeavor. The submitted evidence is not indicative of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59.

III. Conclusion

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 to such an extent that she may be said to have achieved sustained national or international acclaim and to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner's achievements set her significantly above almost all others in her 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.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d at 1043, *aff'd*, 345 F.3d at 683; *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

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.