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U.S. Citizenship
and Immigration
Services

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FILE: EAC 04 198 53439 Office: VERMONT SERVICE CENTER

Date: AUG 13 2005

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as Outstanding Professor or Researcher Pursuant to
Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

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

Maia Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a college. It seeks to classify the beneficiary as an outstanding professor pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The petitioner seeks to employ the beneficiary permanently in the United States as a chemistry professor. The director determined that the petitioner had not established that the beneficiary is recognized internationally as outstanding in his academic field, as required for classification as an outstanding researcher. On appeal, the petitioner submits additional evidence.

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):

(B) Outstanding Professors and Researchers. -- An alien is described in this subparagraph if --

(i) the alien is recognized internationally as outstanding in a specific academic area,

(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

(iii) the alien seeks to enter the United States --

(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

The regulation at 8 C.F.R. § 204.5(i)(3) states that a petition for an outstanding professor or researcher must be accompanied by:

(ii) Evidence that the alien has at least three years of experience in teaching and/or research in the academic field. Experience in teaching or research while working on an advanced degree will only be acceptable if the alien has acquired the degree, and if the teaching duties were such that he or she had full responsibility for the class taught or if the research conducted toward the degree has been recognized within the academic field as outstanding. Evidence of teaching

and/or research experience shall be in the form of letter(s) from former or current employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien.

This petition was filed on June 23, 2004 to classify the beneficiary as an outstanding professor in the field of chemistry. Therefore, the petitioner must establish that the beneficiary had at least three years of teaching experience in the field of chemistry as of that date, and that the beneficiary's work has been recognized internationally within the field of chemistry as outstanding.

The regulation at 8 C.F.R. § 204.5(i)(3)(i) states that a petition for an outstanding professor or researcher must be accompanied by "[e]vidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition." The regulation lists six criteria, of which the petitioner must satisfy at least two. It is important to note here that the controlling purpose of the regulation is to establish international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. The petitioner claims to have satisfied the following criteria.¹

Documentation of the alien's membership in associations in the academic field which require outstanding achievements of their members

The petitioner submitted evidence of the beneficiary's membership in the American Association for Cancer Research (AACR) and the American Society for Investigative Pathology (ASIP). The petitioner failed to submit evidence of the membership requirements for these associations. Thus, the director concluded that the petitioner had not established that these memberships can serve to meet this criterion.

On appeal, the petitioner submits letters from the above associations discussing the membership criteria. [REDACTED] of AACR asserts that AACR is a professional organization with over 22,000 members. [REDACTED] continues that active membership in AACR is "open to investigators worldwide who have conducted two years of research resulting in peer-reviewed publications relevant to cancer and cancer-related biomedical science, or who have made substantial contributions to cancer research in an administrative or educational capacity." Candidates must be nominated by two members who attest "to the candidate's achievements." [REDACTED] of ASIP indicates that regular membership in ASIP requires that the candidate have "conducted published, or supported the conduct of meritorious original research in pathology or a related discipline, support the mission of the Society, and hold a doctorate degree or have equivalent experience."

This office consistently finds that a specific number of years of experience or level of education, having published one's work or securing the nomination of two of the tens of thousands of members of an association are not outstanding achievements. Thus, the petitioner has not overcome the director's concerns. The record does not establish that the beneficiary meets this criterion.

Evidence of the alien's original scientific or scholarly research contributions to the academic field.

Initially, the petitioner submitted two letters from the beneficiary's immediate circle of colleagues and three published articles by the beneficiary. The director found this evidence insufficient to meet this criterion, noting

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

that the letters were from the beneficiary's supervisor and mentor and the lack of evidence that the beneficiary's articles had been cited.

On appeal, the petitioner submits two letters from experts who have not worked or collaborated with the beneficiary and evidence that his work has been cited. All of the evidence relating to this criterion will be considered below. First, however, it is instructive to review the appropriate standard by which we will consider the evidence.

Obviously, the petitioner cannot satisfy this criterion simply by listing the beneficiary's past projects, and demonstrating that the beneficiary's work was "original" in that it did not merely duplicate prior research. Research work that is unoriginal would be unlikely to secure the beneficiary a master's degree, let alone classification as an outstanding researcher. Because the goal of the regulatory criteria is to demonstrate that the beneficiary has won international recognition as an outstanding researcher, it stands to reason that the beneficiary's research contributions have won comparable recognition. To argue that all original research is, by definition, "outstanding" is to weaken that adjective beyond any useful meaning, and to presume that most research is "unoriginal."

██████████ Chairman of the Division of Natural Sciences and Veterinary Technology at the petitioning college, praises the beneficiary's contributions to the petitioner through the creation of a new chemistry course and his collateral duties with the Institutional Review Board Committee. This work, while important to the petitioner, does not appear to be an original contribution to the beneficiary's academic field of chemistry as a whole. While ██████████ mentions the beneficiary's research and published articles, he does not explain how the beneficiary's published work has impacted the field.

██████████, an assistant professor at New York Medical College, discusses the beneficiary's graduate work at that college in the laboratory of ██████████. Specifically, the beneficiary "researched the chemopreventive capability of antioxidants in green tea." While ██████████ notes that this research resulted in published articles, she does not explain how this work has impacted the field. More recently, the beneficiary has been collaborating with ██████████ quantifying residual leukemia and "preparing a proposal for gene therapy in bone marrow transplantation in children afflicted with leukemia." While ██████████ explains the importance of this area of research, which we do not contest, she does not explain how this work, which does not appear to have produced any results as of the date of filing, can already be considered a contribution to the field.

On appeal, ██████████ Ioannides, a professor at the University of Surrey who has cited the beneficiary's work, explains that the beneficiary and his collaborators "have provided the first direct evidence" that the chemopreventive action of tea is "operative." ██████████, former Head of the Department of Experimental Pathology at the Institute of Cancer Research in London, asserts that one of the beneficiary's articles "was an important paper which threw light on the mechanism whereby the consumption of green tea exhibits important cancer-preventing activity." The review article that cites the beneficiary reveals that researchers have been investigating the antioxidant effects of tea since at least the mid-1990's. Both of the beneficiary's independent references attest to the beneficiary's international recognition for his work with green tea, but fail to provide examples of how the beneficiary's work has impacted the field, such as by providing examples of other laboratories applying his work or demonstrating the incorporation of his results into government issued nutritional guidelines.

On appeal, the petitioner also submitted evidence that the beneficiary's three published articles have been cited. As the petitioner must demonstrate the beneficiary's eligibility as of the date of filing,² we will only consider the citations in articles published prior to the date of filing. In addition, citations by coauthors, while a normal and expected process, are not indicative of international recognition. The citation evidence reflects that, as of the date of filing, two of the beneficiary's articles had been cited four times by independent researchers and the third article had been cited six times by independent researchers. Due to the citation of more than one of the beneficiary's articles in some of the citing articles, the beneficiary had been cited in only 11 different articles by independent researchers as of the date of filing. Eleven citations by independent researchers, with no more than six citations for any one article, are not indicative of contributions that have had a significant impact in the field.

While the beneficiary'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 research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. It does not follow that every researcher who obtains a Ph.D. or publishes his work has made an original contribution indicative of or uniquely consistent with international recognition. The record does not establish that the beneficiary's work represented a groundbreaking advance in chemistry.

Evidence of the alien's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.

Counsel does not specifically challenge the director's conclusion that the beneficiary does not meet this criterion. Nevertheless, we will discuss the evidence relating to it. The petitioner submitted evidence that the beneficiary has authored three published articles. The Association of American Universities' Committee on Postdoctoral Education, on page 5 of its *Report and Recommendations*, March 31, 1998, set forth its recommended definition of a postdoctoral appointment. Among the factors included in this definition are the acknowledgement that "the appointment is viewed as preparatory for a full-time academic and/or research career," and that "the appointee has the freedom, and is expected, to publish the results of his or her research or scholarship during the period of the appointment." Thus, this national organization considers publication of one's work to be "expected," even among researchers who have not yet begun "a full-time academic and/or research career."

The above report reinforces our position that publication of scholarly articles is not automatically evidence of international recognition; we must consider the research community's reaction to those articles. We do not find that the beneficiary's citation history is indicative of international recognition. Thus, we concur with the director that the beneficiary does not meet this criterion.

The petitioner has shown that the beneficiary is a talented and prolific researcher, who has won the respect of his collaborators, employers, and mentors, while securing some degree of international exposure for his work. The record, however, stops short of elevating the beneficiary to an international reputation as an outstanding researcher or professor. Therefore, the petitioner has not established that the beneficiary is qualified for the benefit sought.

² See 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*; 14 I&N Dec. 45, 49 (Comm. 1971).

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The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.