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Washington, DC 20529

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U.S. Citizenship and Immigration Services

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PUBLIC COPY

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 04 2006

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IN RE: Petitioner: [redacted]
Beneficiary:

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:

[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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner is a public university. It seeks to classify the beneficiary as an outstanding researcher 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 Research Associate II. The director determined that the petitioner had not established that it had offered the beneficiary a permanent job as of the date of filing. The director further 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, counsel challenges both conclusions. While we find that the petitioner has offered the beneficiary a qualifying job, we concur with the director that the petitioner has not established that the beneficiary is internationally recognized. Specifically, we find that the petitioner has established only that the beneficiary meets one of the regulatory criteria, of which an alien must meet at least two.

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.

Job Offer

The regulation at 8 C.F.R. § 204.5(i)(3)(iii) provides that a petition must be accompanied by:

> An *offer* of employment from a prospective United States employer. A labor certification is not required for this classification. The offer of employment shall be in the form of a letter from:
>
> (A) A United States university or institution of higher learning *offering* the alien a tenured or tenure-track teaching position in the alien's academic field;
>
> (B) A United States university or institution of higher learning *offering* the alien a permanent research position in the alien's academic field; or
>
> (C) A department, division, or institute of a private employer *offering* the alien a permanent research position in the alien's academic field. The department, division, or institute must demonstrate that it employs at least three persons full-time in research positions, and that it has achieved documented accomplishments in an academic field.

(Emphasis added.) Black's Law Dictionary 1111 (7th ed. 1999) defines "offer" as "the act or an instance of presenting something for acceptance" or "a display of willingness to enter into a contract on specified terms, made in a way that would lead a reasonable person to understand that an acceptance, having been sought, will result in a binding contract." Black's Law Dictionary does not define "offeror" or "offeree." The online law dictionary by American Lawyer Media (ALM), available at www.law.com, defines offer as "a specific proposal to enter into an agreement with another. An offer is essential to the formation of an enforceable contract. An offer and acceptance of the offer creates the contract." Significantly, the same dictionary defines offeree as "a person or entity *to whom an offer to enter into a contract is made* by another (the offeror)," and offeror as "a person or entity who makes a specific proposal *to another (the offeree)* to enter into a contract." (Emphasis added.)

In light of the above, we concur with the director that the ordinary meaning of an "offer" requires that it be made to the offeree, not a third party. As such, regulatory language requiring that the offer be made "to the beneficiary" would simply be redundant. Thus, a letter addressed to Citizenship and Immigration Services (CIS) *affirming* the beneficiary's employment is not a job *offer* within the ordinary meaning of that phrase.

The regulation at 8 C.F.R. § 204.5(i)(2), provides, in pertinent part:

> *Permanent,* in reference to a research position, means either tenured, tenure track, or for a term of indefinite or unlimited duration, and in which the employee will ordinarily have an expectation of continued employment unless there is good cause for termination.

On Part 6 of the petition, the petitioner indicated that the proposed employment was a permanent position. The petitioner submitted a letter from [redacted] Director of the petitioner's eye center, addressed "To Whom it May Concern," asserting that the petitioner employed the beneficiary as a Research Associate II, a "full-time permanent, scientific research position." [redacted] further states that the beneficiary has been continuously employed at the [redacted] since November 2001 and that it is the petitioner's expectation that the beneficiary will "continue to be employed at the [redacted] for the foreseeable future." [redacted] adds that the beneficiary's continued employment is "contingent upon annual performance evaluation and grant funding." This document does not constitute a job offer from the petitioner to the beneficiary. On June 7, 2005, the director requested evidence that the petitioner had extended a permanent job offer to the beneficiary.

In response, the petitioner submitted a November 13, 2004 letter addressed to the beneficiary from [redacted] Human Resources Coordinator, confirming an offer of employment for a full-time regular position. The petitioner also submitted a new letter from [redacted] opining that, based on past funding patters, "the probability that [the beneficiary] will remain employed as a regular, full time employee at the [petitioning university] is excellent."

The director concluded that the beneficiary's position was contingent on funding and questioned whether it needed to be annually renewed or extended. On appeal, counsel asserted that the petitioner's assertions as to the indefinite nature of the beneficiary's position are the only evidence available. Counsel submitted two subsequent briefs, the last one supported by a June 6, 2006 memorandum from [redacted] Acting Director for Domestic Operations, CIS.

In promulgating the final regulation, the Immigration and Naturalization Services, now CIS, recognized that it is unusual for colleges and universities to place researchers in tenured or tenure-track positions. Thus, the commentary to the final rule accepts that research positions "*having no fixed term* and in which the employee will *ordinarily* have an *expectation* of permanent employment" as comparable. (Emphasis added.) 56 Fed. Reg. 60867, 60899 (November 29, 1991). The petitioner has submitted the original job offer letter that predates the filing of the petition. Nothing in that letter contradicts the assertions b[redacted]hat the beneficiary's job has no fixed term or that the beneficiary enjoys an expectation of continued employment. We are cognizant that college and university research positions are dependent on funding. Nothing in the job offer letter suggests that the beneficiary's position is funded by a specific grant with an ending date. Rather, the record suggests that the beneficiary's

position is funded by continuous grants which the petitioner has a history of receiving. Thus, we are satisfied that the offered position is qualifying.

Outstanding Researcher

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 January 14, 2005 to classify the beneficiary as an outstanding researcher in the field of ophthalmology. Therefore, the petitioner must establish that the beneficiary had at least three years of research experience in the field of ophthalmology as of that date, and that the beneficiary's work has been recognized internationally within the field of ophthalmology as outstanding. The beneficiary joined the petitioning eye center in November 2001 as a research fellow. Thus, as of the date of filing, the beneficiary had more than three years research experience in ophthalmology.

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. More specifically, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. 56 Fed. Reg. 30703, 30705 (July 5, 1991).

Several of counsel's assertions imply that CIS may not evaluate the significance of the evidence provided the evidence relates to at least two criteria. This position is untenable, as it would result in the dubious finding in favor of eligibility for every researcher who volunteers to review manuscripts authored by others in any capacity and who has published an article or two regardless of the community's response to those articles. *See* 8 C.F.R. § 204.5(i)(3)(iii)(C), (E). While that example may be extreme, it illustrates the importance of evaluating the evidence submitted to meet a given criterion as to whether it is indicative of or consistent with international recognition. The regulation at

issue "provides criteria to be used in *evaluating* whether a professor or researcher is deemed outstanding." (Emphasis added.) 56 Fed. Reg. 30703, 30705 (July 5, 1991). The petitioner claims to have satisfied the following criteria.

> *Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field.*

Counsel does not contest the director's conclusion that the petitioner did not claim that the beneficiary meets this criterion. We concur with the director and find that the petitioner has not submitted any evidence relating to this criterion.

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

The petitioner submitted evidence establishing that the beneficiary is a member of the Association for Research in Vision and Ophthalmology (ARVO), which has a membership of 11,370. The petitioner submitted ARVO's bylaws. Rule 2.01 provides that members "shall be individuals with particular *competence or interest* in the field of ophthalmic investigation and vision research." (Emphasis added.) Rule 2.03 provides the following specific requirements for regular members:

> Regular membership shall be restricted to individuals demonstrating a serious interest in or making significant contributions to visual science. This may be evidenced by: (a) scientific publications; (b) attendance at ophthalmological or visual science meetings; (c) direct involvement in research, or (d) other similar activity satisfactory to the Board of Trustees.

The director concluded that these requirements were insufficient and that the beneficiary had not "otherwise distinguished himself significantly from other members."

On appeal, counsel asserts that ARVO requires more than the mere payment of dues and that the beneficiary's membership in ARVO is not "commensurate with" his vocation. Finally, counsel notes that the regulation at 8 C.F.R. § 204.5(i)(3)(iii)(B) does not requires that the beneficiary distinguish himself from other members.

While we concur with counsel that the petitioner need not provide evidence that sets the beneficiary apart from other members, the regulation at 8 C.F.R. § 204.5(i)(3)(iii)(B) does mandate that the organization require outstanding achievements of its members. Not every requirement beyond the payment of dues is an outstanding achievement. We concur with the director that ARVO does not require outstanding achievements of its members. As stated above, members need only be competent or interested in visual research. To demonstrate such competence or interest, members need only demonstrate that they have published research, attended a meeting in the field *or* directly participated in research, none of which are outstanding achievements for an ophthalmology researcher.

In light of the above, the petitioner has not demonstrated that the beneficiary meets this criterion.

Published material in professional publications written by others about the alien's work in the academic field. Such material shall include the title, date, and author of the material, and any necessary translation.

The petitioner has never asserted that the beneficiary meets this criterion. Although this criterion clearly relates to published materials "written by others," the director appears to have considered the beneficiary's own publication record under this criterion, concluding that the beneficiary had not been cited to a sufficient degree to warrant a favorable finding. Articles which cite the beneficiary's work are primarily about the author's own work, not the beneficiary. As such, they cannot be considered published material about the beneficiary regardless of the number of such cites. Rather, frequent and wide citation can serve as objective evidence to meet other criteria, as will be discussed below.

We acknowledge that the petitioner submitted several press releases it issued that were reproduced on two medical websites in addition to the petitioner's own website. We are not persuaded that the petitioner's own press releases constitute the type of independent journalistic or scientific coverage contemplated by the regulation. Thus, the petitioner has not established that the beneficiary meets this criterion.

Evidence of the alien's participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field.

The record reflects that the beneficiary had refereed one manuscript by [redacted] and [redacted] for *Molecular Vision* prior to the date of filing. Subsequent to the date of filing, the beneficiary, "or a senior member of [the beneficiary's] laboratory," was invited to review articles for *FEBS Letters*. Also after the date of filing, the beneficiary was invited to review articles for *Genomics* and *Current Eye Research*. Finally, the petitioner submitted evidence that the beneficiary completed the requested reviews.

The director concluded that peer review was a professional obligation in the beneficiary's field and that the beneficiary had not demonstrated that he had held editorial positions that would set him apart from others in the field. On appeal, counsel asserts that the director's standard is "almost impossible to meet" and that the beneficiary has satisfied the basic requirements of the regulation at 8 C.F.R. § 204.5(i)(3)(iii)(C) as he has judged the work of others by reviewing manuscripts.

First, the petitioner must establish the beneficiary's eligibility as of the date of filing. *See* 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak,* 14 I&N Dec. 45, 49 (Reg. Comm. 1971). Thus, any reviews conducted after the date of filing cannot be considered. As stated above, the record establishes only that the beneficiary completed a single review for *Molecular Vision* as of the date of filing.

The evidence submitted to meet a given criterion must be indicative of or consistent with international recognition if that statutory standard is to have any meaning. We cannot ignore that scientific journals are peer reviewed and rely on many scientists to review submitted articles.[1] Thus, peer review is routine in the field; not every peer reviewer enjoys international recognition. We note that the June 9, 2004 request from the editors of *Molecular Vision* states that they will forward the manuscript to the beneficiary for his review "if" *he* feels his is qualified to perform the review. The Internet materials submitted by the petitioner regarding *Molecular Vision* provide that manuscripts are assigned to an editor who then requests critiques from "at least two *appropriate* reviewers." (Emphasis added.)

Without evidence that sets the beneficiary apart from others in his field, such as evidence that he has reviewed an unusually large number of articles, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, we cannot conclude that the beneficiary meets this criterion. We do not feel that this standard is "almost impossible." According to the Internet materials submitted, *Molecular Vision* alone has an editorial review board of 59 scientists, suggesting that editorial positions exist in the beneficiary's field. While such positions may not be commonplace in the field, "[o]utstanding professors and researchers should *stand apart* in the academic community through *eminence and distinction based on international recognition*." (Emphasis added.) 56 Fed. Reg. 30703, 30705 (July 5, 1991).

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

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

Initially, counsel listed the beneficiary's published articles as the sole evidence to meet this criterion. In response to the director's request for additional evidence, counsel notes the press releases mentioned above. The record also contains a patent application, reference letters and the beneficiary's citation history.

The director noted that the reference letters were primarily from the beneficiary's immediate circle of colleagues and concluded that the petitioner had not established that the beneficiary's reputation extended past his colleagues. On appeal, counsel asserts that reference letters are only issued upon request and, thus, the fact the beneficiary requested reference letters on his behalf should not be considered adversely. Counsel further notes that the petitioner submitted evidence that the beneficiary's work was published and cited. Counsel concluded that the regulation at 8 C.F.R. § 204.5(i)(3)(iii)(E) requires "only evidence of the alien's original scientific research contributions. [The] Beneficiary has already made two major discoveries in his field. That should have been enough to qualify [the] Beneficiary as an outstanding researcher."

[1] While appearing on the website of a professional association in a different area of science, it is significant that the American Physical Society considers "scientists" to have "an obligation" to participate in the peer-review process. *See* www.aps.org/statements/02_2.cfm.

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."

The fact that the beneficiary has published his results cannot serve, in and of itself, to meet this criterion. We note that publication of scholarly articles is a separate criterion set forth at 8 C.F.R. § 204.5(i)(3)(iii)(F). The implication that meeting that criterion is presumptive evidence to meet this criterion is to render meaningless the regulatory requirement that an alien meet at least two of the regulatory criteria. At issue is whether the results reported in those articles can be considered contributions indicative of or consistent with international recognition. In a similar vein, the evidence that the beneficiary is an inventor on a patent application does not show that the beneficiary's invention is more significant than those of others in his field. To establish the significance of the beneficiary's work, we turn to experts in his field, whose letters we discuss below.

The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim of international recognition. Citizenship and Immigration Services (CIS) may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm. 1988). However, CIS 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; CIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796. CIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *See also 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 evaluating the reference letters, we note that letters containing mere assertions of international recognition and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. In addition, 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 and are merely responding to a solicitation to review the petitioner's curriculum vitae and work and provide an opinion based solely on this review. 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 international recognition should be able to produce unsolicited materials reflecting that recognition.

The beneficiary obtained his Ph.D. from the University of Delhi, India in 2001. His research at that university focused on deciphering the mechanism of action of the anthrax toxin, identifying a molecule that can be used to protect mice poisoned by anthrax toxin. After completing his degree, the beneficiary joined the laboratory of [redacted] at the petitioner's eye center focusing on the mode of action of eye disease proteins.

[redacted] concedes that the beneficiary's work on anthrax in India is not "directly related" to his current work, but asserts that there is "an indirect relationship in terms of the methodology and training he received in the field of biochemistry and molecular biology." As quoted above, section 203(b)(1)(B)(i) provides that the alien must be recognized internationally as outstanding *in a specific academic area.* Similarly, 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 petitioner indicated on the petition that the beneficiary would focus on hereditary retinal diseases that fall under the group name [redacted] The remainder of the record reveals that the beneficiary now works in ophthalmology. Thus, the petitioner must establish that the beneficiary is recognized internationally in the academic field of ophthalmology.

asserts that while working in his laboratory, the beneficiary has "determined that two eye disease proteins, NLR (neural retina leucine zipper) and PNR (photoreceptor-specific nuclear receptor) specifically activate genes responsible for the development and maintenance of photoreceptor cells in the retina." [redacted] asserts that this work has been reported in one published article, three submitted papers and well-received presentations. The petitioner submitted five additional reference letters from six researchers, all of whom appear to be collaborators since they all conclude with this paragraph:

> Finally, I would like to provide a brief summary of my experience collaborating with [the beneficiary]. We worked together on characterizing different reagents that will be useful in the understanding of the pathogenesis of RP and development of appropriate therapeutic agents. I found [the beneficiary] to be an intelligent and original scientist and I truly respect his passion for his work as well as his research skills. [The beneficiary's] particular research into the Identification of and mechanism of these disease-causing mutations will ultimately lead to better and more successful treatment of these debilitating diseases.

More significantly, after explaining the author's background and connection to the beneficiary, all of the letters contain the same three-paragraph discussion of the beneficiary's work[2] in almost verbatim

[2] The near-identical paragraphs all begin as follows:

> [The beneficiary] received his Ph.D. from the University of Delhi, India where he worked on deciphering the mechanism for action of anthrax toxin. While not directly related to his current research . . .

language, with only minor changes of a word here and there. While the authors all signed the reference letters affirming the information in the letters, the use of three near-identical paragraphs to discuss the beneficiary's work and its importance and a fourth identical paragraph purporting to characterize their personal experience of collaborating with the beneficiary suggests that the language is not their own.

The above letters are all from the beneficiary's immediate circle of colleagues and, by themselves, cannot establish the beneficiary's recognition beyond that circle. As stated above, the press releases issued by the petitioner carry less weight than independent journalistic coverage. Two of the beneficiary's ophthalmology articles were cited only by [redacted] and a third ophthalmology article was cited by beneficiary himself and four other independent research groups. This citation history is not significant. While most of the beneficiary's anthrax articles have been cited only once, one of the beneficiary's anthrax articles has been cited 19 times, including two self-citations. The petitioner has not satisfactorily established that the beneficiary's anthrax research falls within his current academic field, ophthalmology. Regardless, moderate citation of a single article is not persuasive evidence that the beneficiary's contributions have been recognized internationally as outstanding. That said, we will revisit this evidence below.

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 research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. **The record does not establish that the** beneficiary's work is indicative of contributions recognized internationally as outstanding.

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

The petitioner submitted evidence that the beneficiary has authored published articles and has presented his work at conferences. 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

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[redacted] extensive experience in biochemistry and molecular biology led him, in November 2001, to the laboratory of [redacted] was responsible bringing microarray technology to the Kellogg facility . . .

In addition to his publications, [the beneficiary] has made numerous presentations at national and international meetings and conferences. His presentations have always been excellent and are very important to the continued study of . . .

[redacted] Research Director at France's INSERM, combines the first and second paragraphs, but uses the same language.

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." This 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.

As stated above, the beneficiary's ophthalmology research has not been cited more than four times by independent researchers. While one of the beneficiary's anthrax articles has been moderately cited, the petitioner has not established that this demonstrates recognition in the field of ophthalmology. Even if we broadened the beneficiary's academic field to biochemistry or microbiology and considered the anthrax article, the beneficiary would meet only a single criterion. An alien must meet two criteria in order to establish eligibility.

While we acknowledge the relationship between scientific contributions and published articles, we will not presume that an alien meets the contributions criterion simply based on meeting the scholarly articles criterion. We reiterates that such a presumption would render the requirement that an alien meet two criteria meaningless. As discussed in more detail above, moderate citation of a single article only indirectly related to the beneficiary's academic field, without independent reference letters attesting to the impact of the beneficiary's results, cannot serve to meet the contributions 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.

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.