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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
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Washington, D.C. 20536



File: EAC 01 088 51908

Office: Vermont Service Center

Date: **OCT 01 2002**

IN RE: Petitioner:
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)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

This is the decision 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 the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

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 Associate Commissioner for Examinations 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 the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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 to the United States will substantially benefit prospectively the United States.

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 Service regulation at 8 C.F.R. 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition, filed on January 25, 2001, seeks to classify the petitioner as an alien with extraordinary ability as an economist. At the time of filing, the petitioner was employed as a Senior Economist for the [REDACTED] in Washington, D.C. 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, international 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 sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence that, counsel claims, meets the following criteria.

Published materials 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.

On appeal, counsel states that published material about the petitioner was provided in support of the petition. A complete review of the record finds no evidence to support this claim. The assertions of counsel do not constitute evidence. Matter of Laureano, 19 I&N Dec. 1, 3 (BIA 1983); Matter of Obaighena, 19 I&N Dec. 533, 534 (BIA 1988); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 (BIA 1980). The petitioner has submitted no evidence to demonstrate that he has attracted the sustained attention of the national press or major media.

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 submits a letter from Dr. Farhad Noorbakhsh of the University of Glasgow in Scotland. We note that the petitioner received his doctorate and master's degree from the University of Glasgow. Dr. Noorbakhsh states that the petitioner "supervised and examined graduate student dissertations for the degree of Master's of Philosophy during the period of his employment as a Research Fellow (1988-1991)." According to the petitioner's resume, the petitioner "...supervised three research students, [and] taught graduate and undergraduate students for about eighty hours a year for three years..."

In an occupation where "judging" the work of others is an inherent duty of the occupation, such as an instructor, teacher (including graduate student teaching assistants), professor or editor, simply performing one's job related duties demonstrates competency, and is not evidence of national or international acclaim.¹ Instead, the petitioner must demonstrate that his notoriety in the field resulted in his selection to serve as a judge of the work of others. Similarly, the judging must be on a national or international level and involve other accomplished professionals in the research field. For example, judging tenured research professors carries greater weight than judging graduate students.

The petitioner submits an additional letter from Dr. R. Arunachalam of the University of Madras in India, the school where the petitioner received his bachelor's degree. Dr. Arunachalam states: "...[the petitioner]... has been on my panel of Ph.D. Examiners, as an external examiner for the last over [sic] five years. I have found his adjudication reports highly objective and he does his job with

¹ This is true with all duties inherent to an occupation. For example, publication is inherent to researchers. Thus, the mere publication of scholarly articles cannot demonstrate national acclaim. The petitioner must demonstrate that the articles have garnered national attention, for example, by being widely cited.

a sense of professional dedication." The record contains no evidence that the petitioner's notoriety as an economist resulted in his being selected as an examiner. It would be more reasonable to conclude that the petitioner was selected because of his direct ties to the university.

The selection of the petitioner to supervise and conduct examinations of graduate students from his alma maters is reflective of local or institutional, rather than national, recognition.

The petitioner also submits a brief book review (consisting of three paragraphs) he wrote that appeared in the *Economic Journal of the Royal Economic Society* in September 1993.

The regulation at 8 C.F.R. 204.5(h)(3) provides that "a petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Evidence of the petitioner's participation as a judge must reflect these requirements. The petitioner's supervision and examination of university students from his alma maters and authorship of a single book review in 1993 is hardly indicative of sustained national or international acclaim.

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

Dr. Christian Peterson, Lead Economist, Europe and Central Asia Region, the [REDACTED], states:

The World Bank incorporated [the petitioner's] distinct research approaches to modeling developing countries in its global economic model called Bank-GEM since 1992. This model has since provided the analytical background for such annual flagship publications as the World Bank's *Global Economic Prospects*.

As a colleague, [the petitioner] played a lead role in our efforts in forecasting global economic prospects and how they affect developing countries... [The petitioner] made essential contributions at the International Economic Analysis and Prospects Unit in many important studies such as the effects of policy slippage in industrial countries, higher interest rates, trade liberalization effects, the effects on developing countries of oil price fluctuations, etc.

While Dr. Peterson's statements indicate that the petitioner's work has been important to his unit at the [REDACTED] the evidence falls short of establishing that the global economic model developed by the petitioner has had far-reaching impact on the field of global economics. There is no evidence that the petitioner's work has been incorporated into any other of the numerous units at the [REDACTED] or that the model has garnered the attention of independent economists. Nor does the record establish that providing the analytical framework for *Global Economic Prospects* is a contribution of major significance to the field. The evidence submitted does not show how the petitioner's individual work is renowned beyond his efforts at the World Bank.

Dr. Shigeru Otsubo, Associate Professor International Development Economics, Nagoya University, worked with the petitioner at the [REDACTED] from 1993 to 1996. Dr. Otsubo credits the petitioner with conducting "pioneering research on the subject of North-South macroeconomic interactions," but offers no specific details regarding the research or its impact on the field of economics. The bulk of the information provided in Dr. Otsubo's letter describes the petitioner's background rather than his specific contributions of major significance.

Dr. Otsubo notes that the petitioner has had works "published in prestigious academic journals." The record, however, contains no evidence that publication is a rarity in the petitioner's field, nor does the record sufficiently demonstrate that independent researchers have heavily cited or relied upon the petitioner's findings in their research. It can be argued that any Ph.D. thesis or article, in order to be accepted by a university or for publication, must offer new and useful information to the pool of knowledge. It does not follow that every researcher whose theories are accepted for publication or as a dissertation has made a major contribution in the field of economics. The impact and implications of the petitioner's findings must be weighed. The record fails to demonstrate that the petitioner's articles have garnered national or international attention from throughout the economic research community. We will further address the petitioner's published works under a separate criterion.

The petitioner submits a second letter from [REDACTED], Senior Lecturer and Director of the Center for Development Studies, University of Glasgow. Dr. [REDACTED] states:

I have known [the petitioner] for more than ten years mainly as a scholar and a colleague. He studied at Glasgow University for four years for his Master and Ph.D. degrees. I was his direct lecturer, tutor and supervisor for his Master's degree.

[The petitioner] was one of the best students we have had in Glasgow and he finished his Master's program with excellent results. On the basis of his performance during his Master year he was awarded the Class Prize for best student in his class. He then proceeded to become a Research Fellow and a Ph.D. student in the Department of Economics. For the next four years he produced very valuable research resulting in a number of publications in prominent professional journals.

During his time in Glasgow we conducted joint research on a number of occasions. One such project was to develop a computerized database for our students based on data from Food and Agricultural Organization of the United Nations and also data from the World Bank.

Another project was the development of a computerized road project case study. Both projects proved to be very productive and effective and without [the petitioner's] contributions they would not have been accomplished. He also published a number of influential articles in prominent academic journals jointly with a number of colleagues in the Department of Economics.

In brief, [the petitioner's] academic contributions in the field of development economics during his years in Glasgow has been excellent.

Dr. David Vines, Professor of Economics, Balliol College, Oxford University, formerly served as a professor at Glasgow University where he supervised the petitioner's Ph.D. studies. Dr. Vines states:

I have known [the petitioner] very well since 1986 from when I was Professor at Glasgow University. He won a British Council scholarship to come to Glasgow University to study for a Master's in Development Economics there. He was an outstanding student the best student on the course. As a result he won a Glasgow University scholarship to enable him to stay at Glasgow University to write a Ph.D. supervised by me. In this work he organized a new database with inputs from a variety of sources and built a macroeconomic model, the first of a series of such models, as part of a collaborative project between Glasgow University and the London Business School. This work was carried out to help forecast economic developments in groups of Third World countries and how these interact with OECD countries. The work was outstandingly innovative and led to its modeling outputs which were implemented within the World Bank. In addition, the work was published in a number of academic journals (for example *Economic Journal Manchester School*) and disseminated to development specialists and economic modeling practitioners in the U.K. and elsewhere. It has also led to further similar work in the U.K. and in Australia. [The petitioner] was subsequently hired by the World Bank as a result of the work that he did with me in Glasgow.

At the [redacted] [the petitioner] has made a very important contribution. He worked as an economist to produce [semiannual] forecasts for a group of 90 developing countries and produced scenarios projecting developments into the future for the World Bank's Global Economic Prospects publication, using the modeling skills that he acquired at Glasgow. This involved managing a team of people doing this work. He made significant productivity savings in this work. Since 1998 he has worked as a Senior Economist in the Middle East and North Africa Region of the [redacted]. This has involved a mixture of two kinds of work. First, he is the coordinator for the Live Data Base system. Second, he is developing new macroeconomic modeling tools for the Bank. His skills are highly unusual in involving a mixture of database and economics abilities and as a result are extremely strongly valued by the World Bank. This combination of skills is a rare one and means that his work is of great value to development specialists and development policymakers.

Drs. Vines and Noorbakhsh devote significant portions of their letters to the petitioner's academic accomplishments at the University of Glasgow. University study, however, is not a field of endeavor, but, rather, training for future employment in a field of endeavor. The petitioner's past academic achievements may place him among the top students from his university, but offer no meaningful comparison between the petitioner and experienced economists who have already completed their educational training.

Dr. Vines' statements indicate that the petitioner's macroeconomic tools developed at the University of Glasgow were implemented at the World Bank. That the petitioner's work has proved useful to his employer, does not establish its major significance to the field. Dr. Vines does not indicate that the petitioner's work has had a major impact on the developing countries the model is designed to assist. The record does not contain documentation from public sources such as Congressional hearings, international conferences or news media, making independent reference to the petitioner's work. It has not been shown that the petitioner's work has received acclaim at the national or international level, outside his unit at the World Bank.

Dr. Warwick McKibbin, Professor, Economics Division, Australian National University, met the petitioner while serving as a consultant at the World Bank. Dr. McKibbin states that the petitioner "has been working to incorporate developing countries into global economic models" and that the petitioner's research is "important and path-breaking." He describes the petitioner as "a key person in the development of the World Bank global economic model," which is used to produce global economic forecasts that focus on developing countries.

Dr. Chris Allen, Primary Economist, European Central Bank, collaborated with the petitioner on a research project for the [REDACTED]. Dr. Allen describes the petitioner as "one of the leading experts on the macroeconomic linkages between developing countries and the global economy." Dr. Allen further states:

Academically, [the petitioner's] publications on the statistical modeling of developing country trade flows provide some of the standard references in the field. In practical terms, his work at Glasgow University and subsequently at the World Bank has initiated an entirely new way of forecasting the role of developing countries in the world economy. This work is now used by a number of international institutions and forms the basis of the World Bank's acclaimed semiannual publication *Global Economic Prospects and the Developing Countries*. In his current position, he plays a key coordinating role within the World Bank and is acknowledged internationally as an important development specialist.

Dr. Allen asserts that the petitioner's economic forecasting model "is now used by a number of international institutions," but he does not identify the institutions or indicate how many utilize the model. We note that the petitioner provides no evidence from any international institutions to support Dr. Allen's assertion.

The petitioner's six witnesses include a current and a former coworker at the World Bank, two of his academic supervisors from the University of Glasgow, and two individuals who have collaborated or consulted with the petitioner on projects at the World Bank. The witnesses describe the petitioner's expertise and value to his current and former research projects, but do not demonstrate the petitioner's influence on the field beyond his employer or academic institutions. The petitioner has not shown that his work has attracted significant attention from independent researchers in the economics field. If the petitioner's work is not widely praised outside of his personal acquaintances, then it cannot be concluded that he enjoys sustained national or international acclaim as one who has reached the very top of his field.

Letters from those close to the petitioner certainly have value, for it is those individuals who have the most direct knowledge of the petitioner's specific contributions to a given research project. It remains, however, that the petitioner has collaborated on projects with many of his witnesses, and no economic researcher is likely to view his or her own work as unimportant. The observation that all of the witnesses have close ties to the petitioner is not intended to cast aspersions on the integrity of the witnesses; the letters accompanying the petition are acknowledged as coming from experts in the field of economic research. Still, these individuals became aware of the petitioner's research work because of their close contact with the petitioner; their statements do not show, first-hand, that the petitioner's work is attracting attention on its own merits, as we could expect with research findings of major significance in the field of economics. The petitioner must show not only that his findings are important to his employer, colleagues, and collaborators, but throughout the economic research field.

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

The petitioner submits evidence that he has co-authored or contributed to economic research publications, presentations, and World Bank internal reports. The co-authorship of internal reports with restricted circulation does not reflect publication in major media. While the petitioner has contributed to several public reports issued by his unit at [REDACTED] the petitioner has offered no evidence of the extent of their circulation to demonstrate that they constitute publication in major media. The [REDACTED] web site indicates that 14,000 publications are available for download; there are 7,500 publications available from Senior Economists. There is no evidence to indicate that the publications contributed to by the petitioner have been disseminated beyond the World Bank's publisher. There is no evidence, for example, of independent citation of any of these works.

The majority of the World Bank reports submitted did not list the petitioner as a principal author. For example, *Global Economic Prospects and the Developing Countries* (1997) contains the following passage: "The task manager and principal author of the report was Milan Brahmbatt, working under the guidance of Uri Dadush." Other reports provided, such as *Do We Face a Global Capital Shortage?* (1995) and *East Asia's Trade and Investment: Regional and Global Gains from Liberalization* (1994), acknowledge the petitioner's contribution but list others as the main authors. Another report lists Zoubida Allaoua as the team leader and mentions the petitioner among forty other contributors. Numerous research units at the World Bank generate published reports and the petitioner has not shown how his individual work places him at the pinnacle of the economic research field.

The petitioner also submits evidence of his co-authorship of scholarly articles as a research fellow at the University of Glasgow where he received his doctorate. 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 were 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," rather than a mark of distinction, among postdoctoral researchers. This report reinforces the Service's position that publication of scholarly articles is not automatically evidence of sustained acclaim; we must consider the research community's reaction to those articles. When judging the influence and impact that the petitioner's work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. Publication alone may serve as evidence of originality, but it is difficult to conclude that a published article is important or influential if there is little evidence that other researchers have relied upon the petitioner's conclusions. Frequent citation by independent researchers would demonstrate more widespread interest in, and reliance on, the petitioner's work.

Without evidence reflecting independent citation of his articles, we find that the petitioner has not significantly distinguished his published results from those of other economic researchers. It can be expected that if the petitioner's published research were truly significant, it would be widely cited. In sum, the petitioner has failed to demonstrate that his published works have earned him, individually, national or international acclaim.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The petitioner submits a letter from the World Bank reflecting that as a Senior Economist he earned a salary of \$146,477 in 2000. Counsel provides information from the Department of Labor's Occupational Outlook Handbook indicating that the petitioner's earnings at the [REDACTED] place him within the top ten percent salary range for economists. We note, however, the existence of positions at the World Bank above that of a Senior Economist. Dr. Peterson holds the title of Lead Economist. There is also a Chief Economist listed on the organizational chart on the World Bank's web site. We note that the position of Senior Economist does not even appear on the extensive organizational hierarchy of positions at the [REDACTED]. While the petitioner's salary may place him within the top ten percent salary range, we cannot ignore the petitioner's failure to provide evidence regarding the salaries of the many Senior Economists, Lead Economists and Chief Economists employed at the World Bank as a basis for further comparison.

The fundamental nature of this highly restrictive visa classification demands comparison between the alien and others in the field. The regulatory criteria describe types of evidence which the petitioner may submit, but it does not follow that every economist whose work has been published, or who has made contributions to his unit at a distinguished international institution, is among the small percentage at the very top of the field. While the burden of proof for this visa classification is not an easy one to satisfy, the classification itself is not meant to be easy to obtain; an alien who is not at the top of his or her field will be, by definition, unable to submit

adequate evidence to establish such acclaim. This classification is for individuals at the rarefied heights of their respective fields; an alien can be successful, and even win praise from well-known experts in the field, without reaching the top of that field. We cannot ignore that several of the petitioner's witnesses appear to have earned considerably more prestige and authority in the economic research field. A simple comparison of their achievements with those of the petitioner shows that the petitioner has not amassed a record of accomplishment placing him at or near the top of his field.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States. The petitioner has failed to demonstrate that he meets at least three of the criteria that must be satisfied to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

As noted by the director, the petitioner has demonstrated an impressive career as an economic researcher. Review of the record, however, 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, nationally or internationally. 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 burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.