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U.S. Citizenship
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Services

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FILE: [REDACTED]
EAC 06 025 52087

Office: NEBRASKA SERVICE CENTER

Date: APR 30 2008

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

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

ON BEHALF OF PETITIONER:



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.

Maura Deadnick
for Robert P. Wiemann, 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, a non-profit public policy research foundation, seeks to classify the beneficiary 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. The director determined the petitioner had not established that the beneficiary has earned the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, counsel argues that the director improperly failed to consider evidence, ignored the clear significance of the evidence, and mischaracterized the beneficiary's area of expertise.

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.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

This petition, filed on October 25, 2005, seeks to classify the beneficiary as an alien with extraordinary ability as a policy analyst specializing in African economic development and European affairs. At the time of filing, the beneficiary was working for the Cato Institute as a Policy Analyst and Assistant Director for the Project

on Global Economic Liberty.¹ An August 25, 2005 letter from [REDACTED], Chairman, Cato Institute, states: “[The beneficiary] has now been on our resident professional staff for nearly three years with the primary responsibility for analyzing economic policy issues affecting Europe and sub-Saharan Africa.”

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). Barring the alien’s receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. A petitioner, however, cannot establish the beneficiary’s eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the beneficiary meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of “extraordinary ability” as “a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The petitioner has submitted evidence pertaining to the following criteria

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

The petitioner submitted evidence of the beneficiary’s receipt of the following:

1. Charles G. Koch Summer Fellowship (2001), Institute for Humane Studies (IHS), George Mason University. The beneficiary’s resume states that he was selected for this fellowship, “but unable to attend.”;
2. University of St. Andrews, Scotland, Scholarship for study toward Ph.D. (1999);
3. University of St. Andrews Distinction in the Dissertation, International Security Studies (1999);
4. University of the Witwatersrand, South Africa, Certificate of Merit for Bachelor of Arts Degree with Distinction (1998);
5. University of the Witwatersrand Certificate of Merit for Bachelor of Arts Degree with Distinction in International Relations (1998);
6. University of the Witwatersrand Certificate of Merit for Bachelor of Arts Degree with Distinction in Classical Civilization (1998);
7. University of the Witwatersrand Postgraduate Local Merit Scholarship for 1998;
8. University of the Witwatersrand Postgraduate Merit Award (1998);
9. University of the Witwatersrand Herbert Ainsworth Scholarship for Academic Excellence (1998);
10. University of the Witwatersrand Herbert Ainsworth Scholarship for Overseas Study (1998);
11. Jan Smuts Prize, South African Institute of International Affairs, South Africa (1997). Information submitted by the petitioner states: “This prize is awarded annually by the Institute of International Affairs [University of the Witwatersrand] to the student who achieved the best results in International Relations III.”;
12. University of the Witwatersrand Certificate of Merit for International Relations III (1997);

¹ The beneficiary earned a Ph.D. in International Relations from the University of St. Andrews, Scotland in 2002.

13. University of the Witwatersrand Certificate of First Class in Classical Civilization III (1997);
14. University of the Witwatersrand Certificate of First Class in International Relations II (1996);
15. University of the Witwatersrand Certificate of First Class in Classical Civilization I (1995); and
16. University of the Witwatersrand Certificate of First Class in German I (1995).

With regard to the preceding fellowship, academic honors, and scholarships, recognition for achievement as a student does not constitute the beneficiary's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. University study is not a field of endeavor, but rather training for future employment in a field of endeavor. The preceding honors reflect institutional recognition in an educational setting rather than national or international recognition for excellence among scholars already working in the field. For example, competition for the honors bestowed by the University of St. Andrews and the University of the Witwatersrand was limited to students enrolled in these universities' degree programs. The beneficiary's receipt of awards and scholarships, limited by their terms to students, is not an indication that he "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). A student award may place the beneficiary among the top students at his university, but it offers no meaningful comparison between him and professional scholars who have already established themselves in the field.

The petitioner submitted evidence that the beneficiary received a stipend of \$1000 from the F.A. Hayek Foundation to cover registration fees and transportation costs associated with his attendance at the Mont Pelerin Society Regional Meeting in Slovakia in 2001. The petitioner also submitted evidence that the beneficiary received a grant of \$800 from the IHS' Hayek Fund for Scholars to offset his travel expenses for attendance at an IHS seminar in 2000. Information submitted by the petitioner states: "The Hayek Fund for Scholars makes strategic awards of up to \$1000 to graduate students and untenured faculty for career enhancing activities" The petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time. The stipend from the F.A. Hayek Foundation and the grant from the IHS represent funding for beneficiary's travel expenses rather than nationally or internationally recognized prizes or awards for excellence in his field. This regulatory criterion is intended to be restrictive and cannot be open to every scholar who has ever received a travel grant or stipend to attend a meeting or a seminar.

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

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted evidence that the beneficiary is a member of the Coalition for a Realistic Foreign Policy. The petitioner also submitted a July 28, 2005 letter from the president of the Globalization Institute stating: "This letter is to confirm that [the beneficiary] has been nominated as a Trustee of the Globalization Institute and will be officially appointed at the next trustee meeting." While this letter states that the beneficiary was "nominated" as a trustee, there is no further evidence showing the date of his official appointment. The petitioner also submitted a May 18, 2005 letter from [REDACTED] Vice President, [REDACTED], and Director of Studies at the Council on Foreign Relations, inviting the beneficiary "to join a new Preventative Action Commission on Angola, jointly sponsored by the Center for Preventative Action (CPA) and Africa Policy Studies at the Council on Foreign Relations." We accept that the beneficiary served on the Preventative Action Commission on Angola, but there is no evidence to support counsel's claim that the beneficiary held membership in the Council on Foreign Relations.² The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1,3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

While the record includes general information about the Coalition for a Realistic Foreign Policy, the Globalization Institute, and the Preventative Action Commission on Angola, there is no evidence (such as membership bylaws or official admission requirements) showing that these organizations require outstanding achievements of their members, as judged by recognized national or international experts in the beneficiary's field or an allied one. As such, the petitioner has not established that the beneficiary meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In general, in order for published material to meet this criterion, it must be primarily about the beneficiary 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. An alien would not earn acclaim at the national level from a local publication. 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 record includes no published material about the alien in professional or major trade publications or other major media. Rather, the petitioner submitted the following listing of "Media Appearances" posted with the beneficiary's biography on the Cato Institute's internet site:

² Membership in the Council on Foreign Relations "is restricted to U.S. citizens (native-born or naturalized) and permanent residents who have applied to become citizens. If foreign born, a candidate must submit a statement that he or she has been naturalized or is a permanent resident who has made formal application for citizenship." See <http://www.cfr.org/about/membership/>, accessed on April 14, 2008.

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.

[The beneficiary] discusses aid to Africa on The NewsHour with Jim Lehrer July 8, 2005. [Real Media]

[The beneficiary] discusses the G8 summit and aid to Africa on CNN July 3, 2005. [Real Media]

[The beneficiary] discusses the euro on TA3 (Slovak TV) July 2, 2005. [Windows Media]

[The beneficiary] discusses the EU constitution referenda on CNN International June 1, 2005. [Real Media]

[The beneficiary] discusses the EU constitution referenda on CNN International June 2, 2005. [Real Media]

On appeal, counsel argues that the director erred in rejecting this evidence as “an unsubstantiated list on the petitioner’s own website.” Although the record includes no actual video footage of the beneficiary’s media appearances, we find the petitioner’s documentation to be credible. However, while this evidence confirms that the petitioner has made various appearances on television programs, this media coverage is not primarily “about” the beneficiary. As the plain language of this regulatory criterion requires “published material about the alien,” we cannot conclude that the petitioner’s evidence meets this 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 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 beneficiary’s participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien’s field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of “extraordinary ability” as “a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2).

In an occupation where “judging” the work of others is an inherent duty of the occupation, such as an instructor, teacher, professor, or editor, simply performing one’s job related duties demonstrates competency, and is not evidence of national or international acclaim.⁴ Rather, a petitioner must demonstrate that the alien’s selection to serve as a judge of the work of others in his field was consistent with national or international acclaim. Similarly, the judging must be on a national or international level and involve other accomplished professionals in the field. For example, evaluating the work of accomplished professors on a national panel of independent experts is of far greater probative value than evaluating the work one’s students or coworkers.

⁴ This is true with all duties inherent to an occupation. For example, publication is inherent to scientific research. 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.

The petitioner submitted an August 25, 2005 letter from [REDACTED], Vice President for Academic Affairs, Cato Institute, stating:

[The beneficiary] has assisted me on several occasions with the *Cato Journal*, which I edit. This is an interdisciplinary public policy journal and is one of the nation's leading sources of in-depth analysis on important policy issues, including monetary policy, international trade, and human rights. In particular, [the beneficiary] has acted as a referee to evaluate the quality of several manuscripts that were submitted to the CJ, including articles on the expansion of the euro zone and on the EU [European Union] Constitution.

The petitioner submitted copies of *Cato Foreign Policy Briefing* papers dated April 2005 and July 2006, and articles in the *Cato Institute Economic Development Bulletin* dated June 2005, September 2005, and February 2006. The petitioner also submitted a *Cato Policy Analysis* paper dated March 2004. With regard to the petitioner's claim that the beneficiary edited the preceding papers, we note that two of them were published in 2006 subsequent to the petition's filing date. A petitioner, however, must establish the beneficiary's eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider the papers from 2006 in this proceeding.

The petitioner has not established that the beneficiary's rendering assistance to [REDACTED] or other editors at the Cato Institute is sufficient to meet this regulatory criterion. We note that peer review is a routine element of the process by which articles are selected for publication in scholarly journals. Occasional participation in a peer review process as directed by one's employer does not automatically demonstrate that an individual has sustained national or international acclaim at the very top of the field. Normally a journal's editorial staff will enlist the assistance of several professionals in the field who agree to review submitted papers. It is common for a publication to ask several reviewers to evaluate 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. In this instance, the beneficiary appears to have acted under the direction of [REDACTED] and there is no evidence that the beneficiary held final authority over the Cato Institute's decision to accept a paper for publication. Further, it appears that the preceding duties were inherent to the beneficiary's position as a policy analyst at the Cato Institute. As discussed previously, duties or activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine to a particular job assignment, or in a substantial proportion of positions within one's occupation. The petitioner has not established that the manuscript review duties assigned to the beneficiary by his immediate employer significantly distinguish him from most others in his field.

The petitioner also submitted evidence that the beneficiary wrote a February 2005 book review for the *TCS Daily*.⁵ However, there is no evidence regarding the circumstances under which the beneficiary was selected to write a book review for this online publication, nor is there evidence showing the significance of writing a review such a publication. The petitioner also submitted evidence of two book reviews the beneficiary wrote

⁵ The record includes no information about the *TCS Daily* or its volume of readership.

for the *Cato Journal* in 2003 and 2004.⁶ The petitioner has not submitted evidence establishing the level of acclaim associated with writing these book reviews or the means by which the beneficiary was selected as a reviewer. In this case, there is no evidence that the beneficiary has judged the work of others in his field in a manner outside the general duties of his position at the Cato Institute and consistent with sustained national or international acclaim at the very top of his field.

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

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

As evidence that the beneficiary meets this criterion, the petitioner submitted several letters of support.

states that he and the beneficiary “collaborated on a critical analysis of the proposed constitution of the European Union and have had frequent conversations on the problems and prospects for the Euro. . . . [The beneficiary] is a careful scholar, articulate in both writing and speech, and is strongly committed to the values of western civilization.”

, President Emeritus of the University of St. Andrews and previous Vice-president for Research and Dean of the Graduate School at Purdue University, states:

It was when [the beneficiary] moved on to the U.K. to do graduate work in St Andrews’ School of International Relations that he first came to my notice as an individual. His impressive course work and thesis for his master’s degree earned him a premium university scholarship and my close personal attention to his subsequent doctoral thesis and general career progression ever since.

His postdoctoral employment as an important member of the Cato Institute in Washington, D.C. has been unusually fruitful as his ample bibliography clearly demonstrates. Within Cato he is an expert on global politico-economic activity with special reference to Africa and Eastern Europe. His output is valued within the U.S. and overseas in the international regions he studies as evidenced by citations and invitations to speak on and write in national and international forums and media. Without doubt he is a person of distinction with qualifications and skills of no little value to the U.S.

, Special Assistant to the President, White House Office of Presidential Personnel, states that he first met the beneficiary in 1998 at the University of St. Andrews during their postgraduate studies. further states:

For the last five years [the beneficiary] has concentrated his interests on Europe: European enlargement into Eastern Europe, the European integration processes and US-European relations. He has written extensively about these subjects and delivered numerous talks to audiences both here in

⁶ For example, the beneficiary wrote a review of Amy Chua’s book *World on Fire: How Exporting Free Market Democracy Breeds Ethnic Hatred and Global Instability*. The beneficiary’s three-page review appeared on page 569 of the *Cato Journal*.

Washington, D.C. and throughout the country articulating his views and predictions. Some of our country's top experts in the field of foreign affairs have remarked on the superior intellectual thinking of [the beneficiary]. They have commented on his interesting and unique ability to bring to light, given his own experience with growing up in a communist country, the most profound insights on issues of European transformation, trade and world economics. His work is not only intellectually provocative and revelatory, but generally accessible as well, which is a mark of a great communicator.

* * *

I hold [the beneficiary] in high regard and believe that the United States will some day be very proud of having had a part in facilitating his future contribution to society.

In his November 3, 2006 letter, [REDACTED], Professor of Economics, American University, states:

Based on my teaching experience and my interactions with [the beneficiary], I have found him to be one of the emerging stars or authorities on African development with his unique perspective. He is purposeful and diligent, with a keen eye 'for 'detail. His intellectual imagination is acute and takes to his work a high sense of duty, devotion and creativity. I was very much impressed by his perspicacity of the problems in his area of study and his relentless pursuit of a thorny problem until he got to the bottom of it. He is a very knowledgeable analyst of African political economy. In fact, both of us have authored separate chapters in a recent book on African development, which was published by the Inter Region Economic Network in Nairobi, Kenya.

We note [REDACTED]'s description of the beneficiary as an "emerging" star or authority in his field and Dr. [REDACTED]'s reference to the beneficiary's "future contribution to society." Such observations regarding the beneficiary's promising future do not establish his eligibility for extraordinary ability classification, as the statute and regulations clearly require that he has already sustained national or international acclaim for his achievements in the field. In this case, a comparison of the beneficiary's achievements with those of his references indicates that the very top of his field is a level above his own present level of achievement.

An October 24, 2006 letter from [REDACTED], Resident Fellow, American Enterprise Institute for Public Policy Research, states:

I have known [the beneficiary] for six years. During that time, we have occasionally worked together or in parallel – on the same topics.

* * *

He has unique appreciation of the problems facing Africa and Central Europe having lived for much of his life in both locations. But while accidents of birth and personal history give him a unique perspective, his research, writing and public speaking provide significant additions to academic literature and debate. They make him a rare commodity: a useful asset in the policy world of Washington. At a time when the U.S. Government, and numerous private entities, are providing

increased funding and assistance to the African continent, and parts of Eastern Europe, [the beneficiary's] advice is invaluable.

I have cited his work on aid in newspaper articles, academic papers and Congressional testimony, and expect to do so for years to come. I have oft-quoted his work on the causes of slow African development. But as a Policy Analyst at the Cato Institute, he has not only published his own work but has brought policy specialists together for conferences and other activities to inform lay audiences and opinion formers.

He has overseen publications on malaria, land reform, trade policy, and on myriad European topics. For example, he recently introduced many in the Washington policy community to the work of the Ugandan academic and journalist, Andrew Mwenda. This has changed my perspective on the current state of Ugandan policy and how U.S. should work with Uganda.

In his October 16, 2006 letter, [REDACTED], Associate Professor, Woodrow Wilson Department of Politics, University of Virginia, states:

I first came into [the beneficiary's] research as a result of my interest in how economics and politics interact in developing countries, which has obvious implications for democratization, economic development, and the rule of law. It does not take long for someone with these interests to come across publications by [the beneficiary], who writes prominently in the areas of property rights, economic development, and state intervention in economic life in Eastern Europe and sub-Saharan Africa.

Over the past for three or four years, I have become steadily more impressed with his professional and intellectual contributions to debates surrounding these issues. I am not the only one recognizing these contributions. Using his platform as both a policy analyst at a major Washington, D.C.-based think-tank, and a prolific opinion or commentary writer, he has attracted attention as a reform-minded analyst of economic growth and the effects of state intervention in his two regions of expertise. Specifically, he has become one of the "players" in the Washington think-tank and policy-studies communities on the question of the conditions and policies which can help create economic growth in middle- and also low-income countries like those in Eastern Europe and Africa, respectively.

The record, however, includes no evidence showing that original work specifically attributable to the beneficiary has significantly impacted foreign policy regarding Europe or Africa.

[REDACTED], former U.S. Ambassador to Nigeria and South Africa and Assistant Secretary of State for International Organization Affairs, and current Ralph Bunche Chair for Africa Policy Studies at the Council on Foreign Relations, submitted an October 23, 2006 letter which states:

Over the past three years I have served on various panels with [the beneficiary], on Task Forces, and in several meetings on African issues. Currently we serve on a Council on Foreign Relations Task Force on United States policy toward Angola.

[The beneficiary] provides a fresh and most relevant approach to scholarship on Africa. Most American scholars on Africa rely on traditional analyses of development, governance, culture, and history. These are important but they often fail to relate Africa to the processes of globalization which demand new answers and bolder approaches to subjects such as poverty and governance. [The beneficiary] challenges those traditional assumptions, emphasizing the importance of trade and private sector growth, and addresses in that context the often taboo subjects of land ownership and financial structures in Africa that are out of line with modern economic processes. As Assistant Director at the Cato Institute, he has brought different points of view to the policy community, including Africans who are themselves willing to break the traditional molds. One important example is the address, published by Cato, by Moietsi Mbeki – brother of the president of South Africa – on the importance of breaking African traditions of land ownership in order to stimulate economic growth.

* * *

[The beneficiary's] approach combines his background and experience in South Africa with his experience and scholarship in central Europe. This provides a fresh comparative perspective on problems of governance, change, and development in Africa. His publications reflect this comparative perspective. This skill has been particularly relevant in the work on the Task Force on Angola mentioned above. Angola is a state that was for many years close to the former Soviet Union and its economic policies and political practices reflect that history. [The beneficiary] has been a singularly valuable member of the Task Force in understanding that history and its consequences for today.

[The beneficiary] is recognized as one of the most valuable scholars on Africa. He challenges his colleagues to think differently. He pushes ideas that seem radical at first, but which over time, I predict, will become standard. This is the type of fresh debate needed on Africa. Otherwise, all the new aid, the counter-terrorism programs, the desire to protect new oil supplies, and the many efforts to combat the threat of worldwide diseases coming out of Africa will fail.

In his October 24, 2006 letter, [REDACTED], Research Fellow, Hoover Institution at Stanford University, and Associate Professor of Economics at the Naval Postgraduate School in Monterey, California, states:

I came across [the beneficiary's] work in 2003, when I read his Cato Institute Policy Analysis entitled, "EU Enlargement: Costs, Benefits, and Strategies for Central and Eastern European Countries." Since then I have become more familiar with his work by reading it in some of the world's most important and widely read newspapers, including the *Financial Times* and the *Wall Street Journal*.

I think very highly of [the beneficiary's] work. He is one of the most insightful analysts and commentators on European affairs in the United States today. For that reason, I asked him to write a chapter concerning the European Union for the new edition of *The Encyclopedia*. He did so and my favorable impression of his work was confirmed. The edition will be published in 2007.

With regard to the beneficiary's authorship of a chapter in *The Encyclopedia*, we note that this work was published subsequent to the petition's filing date. A petitioner, however, must establish the beneficiary's eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 45, 49. Individuals seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition. *Id.* In the same manner as [REDACTED], several of the preceding experts have discussed the beneficiary's published work. The beneficiary's published work, however, relates to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for authorship of scholarly articles and original contributions of major significance, CIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless. We will fully address the articles authored by the beneficiary under the next criterion.

As discussed, the preceding letters describe the beneficiary as a talented scholar and reference his publication record, but do not specify exactly what his original contributions to foreign policy have been, nor do they provide an explanation indicating how any such contributions were of major significance in his field. According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. While the beneficiary is a prolific writer who is knowledgeable regarding African economic development and European affairs, the fact his work has been published or presented is not sufficient to show that it represents an original contribution of major significance in his field consistent with sustained national or international acclaim. For example, the record does not indicate the extent of the influence of the beneficiary's work on other scholars nationally or internationally, nor does it show that his field has somehow changed as a result of his work.

In this case, the letters of support submitted by the beneficiary's professional contacts and their discussion of his work are not sufficient to meet this criterion. The opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. 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 (Commr. 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. Thus, the content of the experts' statements and how they became aware of the beneficiary's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of a scholar who has sustained national or international acclaim. Without evidence showing that the beneficiary's work has been unusually influential, highly acclaimed throughout his field, or has otherwise risen to the level of contributions of major significance, we cannot conclude that he meets this criterion.

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

The petitioner submitted evidence of the beneficiary's authorship of multiple articles in publications such as *Financial Times*, *Wall Street Journal Europe*, and *Investor's Business Daily*. The petitioner also submitted evidence of several articles that reference his work. The articles, references, and the information provided in the letters of support are sufficient to show that the beneficiary meets this criterion.

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

In order to establish that the beneficiary performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of the beneficiary's role within the entire organization or establishment and the reputation of the organization or establishment.

An October 12, 2005 letter from Janette Stout, Director of Administration, Cato Institute, states: "Since joining the Cato Institute in October 2002, [the beneficiary] has proved to be an excellent addition to our team of researchers. His expertise in African economic development and European affairs is invaluable to the continued success of our research in those fields."

The record adequately demonstrates that the Cato Institute is an organization with a distinguished reputation. The record, does not, however, include evidence showing that the beneficiary's role as Policy Analyst and Assistant Director was leading or critical for the organization as a whole. While the beneficiary's expertise in African economic development and European affairs is valuable to Cato's Project on Global Economic Liberty, there is no evidence demonstrating how the beneficiary's role differentiated him from other policy analysts holding similar appointments, let alone more senior employees at the Cato Institute such as its directors, senior fellows, editors, and executive leadership. The record does not demonstrate that the beneficiary was responsible for the Cato Institute's success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim. As such, the petitioner has not established that the beneficiary meets this criterion.

In this case, the petitioner has failed to demonstrate the beneficiary's receipt of a major, internationally recognized award, or that he meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3).

Review of the record does not establish that the beneficiary 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 beneficiary's achievements set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established the beneficiary's 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.