



B3

U.S. Department of Justice  
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
S.W. Building, 3rd Floor  
Washington, D.C. 20536

Identifying data deleted to  
prevent clearly unwarranted  
disclosure of personal privacy

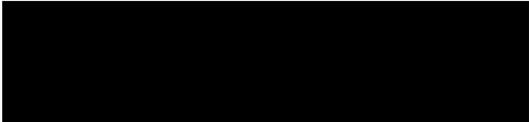


File: WAC 99 219 51867 Office: California Service Center Date: **JAN 03 2002**

IN RE: Petitioner:   
Beneficiary:

Petition: Immigrant Petition for Alien Worker as an 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)

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, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks classification 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 employment as a postgraduate researcher at the University of California, San Francisco. The director denied the petition because the pertinent regulations do not permit an alien to self-petition for classification as an outstanding researcher.

On appeal, counsel states that the petitioner sought classification as an alien of extraordinary ability under section 203(b)(1)(A) of the Act, a classification which permits aliens to file on their own behalf. On the Form I-140 petition, prepared by counsel and signed by the alien under penalty of perjury, the classification sought is clearly marked as "outstanding professor or researcher"; the box next to that term is marked with "xx." The letters are well-centered, rather than overlapping between two criteria. Counsel's cover letter accompanying the petition contains the confusing phrase "Alien of Extraordinary Ability/Outstanding Researcher." Given the clearly marked petition form, and ambiguous accompanying correspondence, we cannot conclude that the director erred in assigning the outstanding researcher classification to this petition.

In any event, the proceeding is now moot. Review of Service records indicates that, the same day he filed the instant petition, the petitioner filed another Form I-140 petition seeking a different classification, with receipt number WAC 99 219 51820.<sup>1</sup> This other petition was approved on January 3, 2001. The petitioner subsequently filed a Form I-485 Application to Adjust Status, receipt number WAC 01 103 53666, which was approved on June 18, 2001. Because the alien has adjusted to lawful permanent resident status, further pursuit of the matter at hand is moot.

**ORDER:** The appeal is dismissed, based on the alien's adjustment to lawful permanent resident status.

---

<sup>1</sup>We note that, although the petitioner clearly filed both petitions on the same day (both petitions have receipt dates of August 9, 1999), the Form I-140 petition in the record shows that the petitioner answered "no" to the question "[a]re you filing any other petitions or applications with this one?"