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U.S. Department of Justice  
Immigration and Naturalization Service

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File: EAC-01-226-55903 Office: Vermont Service Center

Date: OCT 08 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, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a university. It seeks to classify the beneficiary as an outstanding professor pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(B). The petitioner seeks to employ the beneficiary permanently in the United States as a "visiting assistant professor." The director determined that the petitioner had not established the significance of the beneficiary's research, or that the beneficiary is recognized internationally as outstanding in his academic field, as required for classification as an outstanding researcher. The director also concluded that the petitioner had not established that the beneficiary had three years of experience.

On appeal, counsel asserts that the beneficiary "has been" teaching at the petitioning university "for over four years." Counsel further asserts that the beneficiary has received numerous awards and recognition for outstanding achievement. Counsel notes that the record includes evidence of the beneficiary's published works and published material about the beneficiary.

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.

Service regulations at 8 C.F.R. 204.5(i)(3) state 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 July 18, 2001 to classify the beneficiary as an outstanding researcher in the field of religion. Therefore, the petitioner must establish that the beneficiary had at least three years of teaching experience in the field of religion as of July 18, 2001, and that the beneficiary's work has been recognized internationally within the field of religion as outstanding.

In support of the petition, the petitioner submitted the beneficiary's nonimmigrant visa permitting him to teach at the petitioning university. The beneficiary entered the United States on September 2, 2000 on that visa. In response to the director's request for evidence that the beneficiary had three years of teaching experience, the petitioner submitted the beneficiary's resume indicating that he taught one course in Fall 2001 and another in Spring 2002; was a researcher at the petitioning university 1999 through 2001; was a full-time faculty member at Montclair State University in 1996 and 1997; taught courses at the petitioning university from 1993 through 1996, taught courses at Holy Family College in 1995 and 1996, and taught a course at Haverford College in the fall of 1995. In support of this information, the petitioner submitted a letter from the Associate Director of the Intellectual Heritage Program at the petitioning university asserting that "for the past two years I have known and worked with [the beneficiary.]" Leonard Swidler, Co-founder and Editor of the *Journal of Ecumenical Studies*, asserts that the beneficiary had been working as a research fellow at that journal since June 1999. Audrey Kitagawa, an advisor at the United Nations, asserts that the beneficiary "holds positions at Haverford College and [the petitioning university.]" Farrell R. Silverberg asserts that the beneficiary has taught at the petitioning university since 1993 but provides no explanation for his first hand knowledge of that assertion.

The director concluded that the petitioner had not established that the beneficiary had more than two years of teaching experience. On appeal, counsel asserts that the beneficiary has been teaching at the petitioning university for four years. Counsel refers to a letter attesting to this fact. The petitioner submits a March 20, 2002 letter from fellow assistant professor Kenneth M. Dossar who asserts that he has shared an office with the beneficiary "for the past three years" and that the beneficiary had "previous" teaching experience at the petitioning university and Haverford College.

Daniel Tompkins affirms that the beneficiary is currently a full-time faculty member at the petitioning university. Istvan Varkonyi, Associate Director of the Intellectual Heritage Program asserts, in a letter dated March 22, 2002, that the beneficiary is in his third year of teaching in the Intellectual Heritage Program but that the beneficiary has previous experience in the Religion department. Ashok Gangadean, a professor at Haverford College, asserts that the beneficiary taught two courses at that college in 1995 and again in 2002.

The record reflects that the beneficiary was admitted to the petitioning university's doctoral program in 1993, defended his dissertation on April 26, 2001, and received his Ph.D. on January 2, 2002. The above letters are extremely vague regarding the beneficiary's teaching responsibilities while a student. As quoted above, teaching experience while a student is only applicable where the beneficiary had full responsibility for the class. Moreover, the regulations, as quoted above, also require evidence in the form of letters from the beneficiary's employer(s). The record contains no letters from Montclair State University. The letter from Dr. Gagadean at Haverford College is unclear as to whether the beneficiary taught for a full year at that institution.

In light of the above, the petitioner has not overcome the director's concerns regarding the beneficiary's teaching experience.

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

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

On appeal, counsel asserts that the beneficiary has "received numerous awards and recognition for outstanding achievement." On his resume, the beneficiary lists the following honors: a fellowship at Temple University, Tuition Scholarships at Temple University, Teaching Assistantships at Temple University, and a Certificate of Merit from Temple University. The petitioner submitted two certificates from Temple University, an undated Certificate of Merit and a 2001 Certificate of Appreciation for outstanding service as a teaching mentor. Certificates of merit and appreciation from one's employer are not major prizes or awards reflecting international recognition.

Regarding the fellowships and scholarships, the petitioner has not submitted any evidence of these achievements. Regardless, academic study is not a field of endeavor, but training for a future field of endeavor. As such, awards for academic work, scholarships and fellowships cannot be considered awards in a field of endeavor. Moreover, only students compete for such awards. As the petitioner did not compete with national or international experienced experts in the field, the awards cannot be considered evidence of the petitioner's international recognition.

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

The petitioner submits information on the Consortium for Interreligious Dialogue (CID) indicating that the beneficiary is a member of the CID's steering committee. The information provided, however, does not indicate that CID members must do anything other than pay their membership dues. As such, the petitioner has not established that CID requires outstanding achievements of its members. On his resume, the beneficiary lists his membership in the Society for African Philosophy in North America (SAPINA), the American Academy of Religion, and Amnesty International. The petitioner has not submitted evidence of the beneficiary's membership in any of these organization or evidence that they require outstanding achievements of their members.

*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*

On appeal, counsel asserts that documentation to meet this criterion was submitted initially. No such documentation appears in the record.

*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 contains the program for the Annual Meeting of the Mid-Atlantic American Academy of Religion indicating that the beneficiary presided over the session on African Religions. First, the beneficiary presided over a session with a single presenter. There is no evidence that the beneficiary judged the work of prospective panelists and chose the presenter. Moreover, a regional conference presented by universities in the Mid-Atlantic region is not an international event and the beneficiary's presence is not indicative of international recognition.

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

In response to the director's request for additional documentation and on appeal, the petitioner has submitted numerous letters of support from the beneficiary's colleagues. Ashok Gangadean, a professor of philosophy at Haverford College, asserts that the beneficiary is "invaluable" due to his knowledge of several languages and his religious and philosophical training. While he asserts that the beneficiary's contributions have been "uniformly valuable," he does not provide any specific examples.

Istvan Varkonyi, the Associate Director of the Intellectual Heritage Program at Temple University, asserts that he has asked the beneficiary to give lectures and that the beneficiary has contributed to the program, although he provides no examples. Contributing to a program at a single university is not evidence of international recognition.

Leonard Swidler, co-founder and editor of the *Journal of Ecumenical Studies*, asserts that the beneficiary has been active as a research fellow with the journal and as a field assistant with the Global Dialogue Institute (GDI), where he participates in the planning and conduct of all GDI seminars and conferences in the U.S. and abroad. Dr. Swidler asserts that the beneficiary is valuable for the U.S. "directly and for our positive relations with the rest of the world."

Audrey Kitagwa, an advisor for the United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict, asserts that she has participated in panels with the beneficiary and that she is "well versed" in human rights issues. Ms. Kitagwa provides examples of seminars in which the beneficiary has participated and provides general praise of the beneficiary.

Farrell Silverberg, a psychologist and personal friend of the beneficiary, discusses the beneficiary's experience as a journalist. Dr. Silverberg does not explain how this experience, while indicative of the beneficiary's dedication to democracy, reflects on his international recognition as a professor of religion, the beneficiary's purported area of international recognition.

John C. Raines, a religion professor at the petitioning university, indicates that he has previously collaborated with the beneficiary on various projects and provides general praise of the beneficiary's intellect. Alison Konrad, another professor at the petitioning university, asserts that the beneficiary has contributed to his students, the university, and the community and that he will contribute to the United States. She does not explain, however, how the beneficiary has already contributed to his field.

The above letters are all from the petitioner's collaborators and immediate colleagues. While such letters are important in providing details about the petitioner's role in various projects, they cannot by themselves establish the petitioner's international recognition or contributions to the field as a whole.

The petitioner also submitted a letter from three Temple University professors, including the beneficiary, to the UNESCO Chair for Central Africa proposing a collaboration between GDI and the petitioning university to train Central African public health professionals in English and French. The record contains no evidence as to whether or not this collaboration has been successful or its impact. Moreover, while the goals of this collaboration are admirable, it is not clear how the beneficiary's participation in this collaboration reflects on his purported international recognition as a professor of religion, the basis of this petition.

More significantly, the petitioner submitted a letter from Daniel Maguire, a professor of inter-religious ethics at Marquette University, who writes:

[The beneficiary] worked on one of our projects on inter-religious ethics as the representative of African philosophy and theology. I chose him because he is already a well published and well respected scholar. The fourteen scholars from the

world's religions on the team represented religions such as Judaism, Christianity, Islam, Hinduism, Buddhism, indigenous religions, and the Chinese religions. I was thus able to see [the beneficiary] interacting with some of the top scholars from these religions. His contribution was outstanding. Not only did he make lucid presentations on the rich African cultures; he also demonstrated extraordinary expertise on all the religions present at these sessions. From my perspective he was thus a double treasure and a major catalyst in all discussions.

This single letter from a disinterested member of the beneficiary's field is vague regarding how Dr. Maguire learned of the beneficiary. For example, Dr. Maguire does not indicate whether he learned of the beneficiary through the beneficiary's published works or a colleague at the petitioning university. It remains, the record contains no evidence that the beneficiary's publications have been cited or are otherwise influential. There is no evidence that his contributions to the field of religion are recognized by religious scholars internationally.

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

The petitioner submitted the beneficiary's essay published in the book, *For All Life, An Interreligious Dialogue*, and his article published in the *Journal of Ecumenical Studies*. In response to the director's request for additional documentation, the petitioner submitted the beneficiary's resume, listing several articles. The petitioner also submitted the beneficiary's essay in the book *What Men Owe To Women*. The petitioner did not submit any evidence that the *Journal of Ecumenical Studies* has an international circulation or that the books had a wide, international distribution. Without such evidence, the beneficiary's publications cannot be considered evidence of international recognition.

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.

Beyond the decision of the director, the petitioner has not established that it has offered the beneficiary a permanent position as required by the regulations.

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.

The petitioner indicated on the petition that the beneficiary's proposed employment is that of a visiting assistant professor. This position appears inherently temporary. While the petitioner has confirmed the beneficiary's current full-time employment with the petitioning university, the petitioner did not submit any type of job offer to the beneficiary. As such, the petitioner has not established that, at the time of filing, the petitioner had already offered the beneficiary a tenure or tenure-track position.

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.