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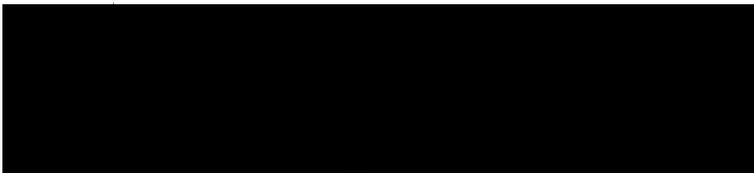
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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JUN 13 2005



FILE: WAC 03 108 53867 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as Outstanding Professor or Researcher Pursuant to Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The preference 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 sustained and the petition will be approved.

The petitioner is a research and development laboratory. It seeks to classify the beneficiary as an outstanding researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The petitioner seeks to employ the beneficiary permanently in the United States as a computer research scientist. The director determined that the petitioner had not established that the beneficiary has attained the outstanding level of achievement required for the category of outstanding professor or researcher.

On appeal, the petitioner correctly notes that the director mischaracterized the beneficiary's publication record.

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.

The regulation at 8 C.F.R. § 204.5(i)(3) states that a petition for an outstanding professor or researcher must be accompanied by:

(ii) Evidence that the alien has at least three years of experience in teaching and/or research in the academic field. Experience in teaching or research while working on an advanced degree will only be acceptable if the alien has acquired the degree, and if the teaching duties were such

that he or she had full responsibility for the class taught or if the research conducted toward the degree has been recognized within the academic field as outstanding. Evidence of teaching and/or research experience shall be in the form of letter(s) from former or current employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien.

The sole issue to be considered in this proceeding is whether the beneficiary's scientific accomplishments are internationally recognized as those of an outstanding researcher in his field. 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 petitioner must meet at least two of six stated criteria. The director concluded that the beneficiary did meet the criterion set forth at 8 C.F.R. § 204.5(i)(3)(i)(D) relating to serving as a judge of the work of others. We will not withdraw that finding. Thus, the petitioner need only establish that the beneficiary meets one additional criterion. We find that petitioner has established that the beneficiary meets the criterion set forth at 8 C.F.R. § 204.5(i)(3)(i)(F). That criterion requires evidence of the beneficiary's authorship of scholarly books or articles (in scholarly journals with international circulation) in the academic field.

The director concluded that the beneficiary had only authored seven articles and that he was not the primary author for any of those articles. As noted by the petitioner on appeal, however, the record contains evidence of 13 articles, six of which list the beneficiary as the sole author. As sole author, the beneficiary was clearly the sole contributor to the work reported in those articles. Even the remaining articles contain few authors, suggesting that each author made a notable contribution. Moreover, in a letter submitted on appeal [REDACTED] a member of the Swedish Academy of Sciences and a coauthor, asserts that it is "a long standing tradition in the field numerical analysis to list the authors on publications alphabetically, and not by significance of contribution." The order of authors on the beneficiary's articles supports this assertion. [REDACTED] further states that the beneficiary's "contribution to each of the above projects was absolutely critical to their success." In addition, the beneficiary not only presented his work at conferences, but was also one of four invited lecturers at the 4th Symposium on Overset Composite Grid and Solution Technology.

The director also concluded that the record lacked evidence of the significance of the beneficiary's publications. The director failed, however, to consider the citations of the beneficiary's work under the scholarly articles criterion. The journal rankings provided on appeal reflect that the beneficiary is not in a field where the top articles are typically cited hundreds, or even dozens, of times. Given that information, the consistent citation of the beneficiary's articles is sufficient to demonstrate their significance in the field. In addition, in a letter submitted on appeal [REDACTED] a professor at the University of New Mexico who has consulted with Los Alamos National Laboratory, asserts that his work has benefited "directly from the technique first developed" by the beneficiary.

As we find that the beneficiary meets two criteria, we need not consider the petitioner's less persuasive assertions. In summary, upon careful consideration of the evidence offered with the initial petition, and later on appeal, we conclude that the petitioner has satisfactorily established that the beneficiary enjoys international recognition as a computer research scientist. The petitioner has overcome the objections set forth in the director's notice of denial, and thereby removed every stated obstacle to the approval of the petition.

The record indicates that the beneficiary meets at least two of the six criteria listed at 8 C.F.R. 204.5(i)(3)(i). Based on the evidence submitted, it is concluded that the petitioner has established that the beneficiary qualifies under section 203(b)(1)(B) of the Act as an outstanding researcher.

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 met that burden. Accordingly, the appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained and the petition is approved.