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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
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Washington, D.C. 20536

[Redacted]

File: EAC 99 053 52088 Office: Vermont Service Center

Date: MAY 02 2002

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

Petition: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(2)

IN BEHALF OF PETITIONER:

[Redacted]

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 pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

Section 203(b) of the Act states in pertinent part that:

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --

(A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer. -- The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The petition was filed on December 2, 1998. At the time of filing, the petitioner held a master's degree in chemistry from the State University of New Jersey, Rutgers-Newark, where he was also pursuing his doctorate. The director acknowledged that the petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor Service regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to Service regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, I.D. 3363 (Acting Assoc. Comm. for Programs, August 7, 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

We concur with the director that the petitioner works in an area of intrinsic merit, analytical and medicinal chemistry, and that the proposed benefits of his biochemical research would be national in scope. It remains, then, to determine whether the petitioner will benefit the national interest to a greater extent than an available U.S. worker with the same minimum qualifications.

Eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. In other words, we generally do not accept the argument that a given project is so important that any alien qualified to work on this project must also qualify for a national interest waiver. At issue is whether this petitioner's contributions in the field are of such unusual significance that the petitioner merits the special benefit of a national interest waiver, over and above the visa classification he seeks. By seeking an extra benefit, the petitioner assumes an extra burden of proof. A petitioner must demonstrate a past history of achievement with some degree of influence on the field as a whole. Id. at note 6.

Along with documentation pertaining to his field of research, the petitioner submits several witness letters [REDACTED] Director of the Program in Cellular and Molecular Biodynamics at Rutgers-Newark, and the petitioner's Ph.D. research supervisor, states:

He has completed all of the course and examination requirements for the Ph.D. more rapidly than any of his peers, indicating that he has an excellent theoretical foundation for the subject matter of his Ph.D. work. His projects are on two classes of enzymes, both

very important to human health: serine proteases, perhaps the most important class of protein/peptide cleaving enzymes in Nature (responsible for the blood coagulation cascade, the immune cascade, and many other important and fundamental biological processes) and Vitamin B 1-dependent enzymes, crucial to both glucose metabolism and biosynthesis of amino acids. The projects are funded by the National Institutes of Health (NIH). As an outstanding researcher on these projects, he has developed some new ideas for structure determination of these two classes of enzymes in solution, so that he can pursue ever more detailed studies of the intimate molecular level workings of these enzymes. He and I have collaborated on several important projects funded by the NIH and private industry. In fact, several important projects were referred to [the petitioner] and I by such leading pharmaceutical companies as [REDACTED]. In the context of these referrals, [the petitioner] conducted breakthrough conformational analysis of the drug products using state-of-the-art technologies like Nuclear Magnetic Resonance. In the course of his work, [the petitioner] was able to provide extremely vital feedback in regards to enhancing the molecular affinity of the pharmaceutical inhibiting agent to its target in the human body, or in reducing its toxicity. This type of work mandates an expert knowledge of structure-based drug design. Structure-based drug design offers a promising solution to the mystery of drug discovery. The Structure-based drug design approach permits the research and development of novel therapeutic agents at "lightening speed" and lower cost. The starting point is not the drug, but its molecular target within the body. Moreover, Medicinal Chemists with expert knowledge in the structure-based methodology, like [the petitioner], are extremely rare and are in the highest of demand. [The petitioner's] results in enhancing the design of pharmaceutical agents take on added significance when taking into account just which types of pharmaceutical agents [the petitioner] analyzed (for stroke and Alzheimer's disease).

As I said previously, [the petitioner] has also become expert at the application of modern Nuclear Magnetic Resonance (NMR) methods to protein structure determination and is the current expert in my labs, participating in every project that requires his expertise. To achieve his goals, he has also become expert at a number of techniques used in our labs, such as DNA manipulation, protein expression and purification, enzyme kinetics, enzyme inhibitor studies, and biological spectroscopy. During these years, [the petitioner] has become a well-respected biochemical expert with a solid combined expertise in chemistry, biochemistry and biophysics. He has contributed significantly to those projects, the results of which have bearing on the design of new drugs to treat human disease. He is a first author on two papers already (one in print in 1998, the other submitted) and has data completed for a third publication. The pioneering work being performed by [the petitioner] in the course of his research has and will continue to serve as a foundation from which other scientists, drug discoverers and physicians can build upon in the course of their own projects in finding new cures and treatments for diseases. [The petitioner] truly exemplifies all of the characteristics possessed by some of the world's most prolific and successful of biomedical researchers. The procedures and methods which [the petitioner] has pioneered at [REDACTED] will be utilized by myself and others in our teaching faculty as learning examples for [REDACTED] most promising students.

_____ mentions the petitioner's academic background and notes that the petitioner completed his course and examination requirements more rapidly than his student peers. University study is not a field of endeavor, but, rather, training for future employment in a field of endeavor. The petitioner's academic accomplishment may place the petitioner among the top students at _____ but it offers no meaningful comparison between the beneficiary and other more experienced biochemical researchers in the field.

_____ states that medicinal chemists with expert knowledge in structure-based methodology "are extremely rare and are in the highest of demand." Pursuant to Matter of New York State Dept. of Transportation, a shortage of qualified workers in a given field, regardless of the nature of the occupation, does not constitute grounds for a national interest waiver. Given that the labor certification process was designed to address the issue of worker shortages, a shortage of qualified workers is an argument for obtaining rather than waiving a labor certification.

_____ and Research Fellow _____ collaborated on enzyme research with _____ and the petitioner. _____

_____ and [the petitioner] have developed spectrometric technique for examining the enzyme inhibitor complexes. [The petitioner] was able to quantitatively study the hydrogen bonding at the active site of model serine proteases using NMR (Nuclear Magnetic Resonance). This of course led to a better understanding of the inhibitor enzyme complex at the molecular level allowing us to understand key features leading to enhanced binding and inhibitor selectivity. This approach is expected to be applicable to a number of target molecules which are of interest to us and to other pharmaceutical companies. These results has been submitted for publication in one of the more prestigious journals, "Biochemistry", and presented at the annual meeting of American Society of Biochemistry and Molecular Biology 1998. His current research on POC (pyruvate decarboxylase) is also very relevant since it is implicated in Alzheimer's Disease.

[The petitioner's] research involves detailed structural studies of the interactions of inhibitors with a class of enzymes (called serine proteases) which cleave proteins. Such serine proteases, including thrombin, trigger the conversion of fibrinogen to fibrin resulting in the clotting of blood. Inappropriate blood clotting can occlude blood vessels in the heart (causing heart attacks), in the brain (causing strokes), and in leg and abdominal veins (setting up the possibility of potentially fatal emboli to the lungs). Inhibitors of serine proteases can therefore function therapeutically as anticoagulants for the treatment of patients with abnormal clotting tendencies. Hence this is a medically and economically important area of research, in which new, safe and specific inhibitors of serine proteases are continually being sought. For such inhibitor design, detailed

structural information on these enzymes is required.

In his NMR studies of these enzymes complexed with inhibitors, [the petitioner] has already made an important finding correcting previous misconceptions about the structure of an amino acid at the active site. He has also demonstrated the importance of strong hydrogen bonding at the active sites of several of these enzymes when complexed with inhibitors. He plans to extend these studies to the important clotting enzyme, thrombin. In other work, [the petitioner] has begun an NMR study of the active site of the enzyme pyruvate decarboxylase focussing on the bound thiamine (vitamin B1). Failure of this enzyme to function properly may contribute to the disability in Alzheimer's Disease. I met [the petitioner] at a recent meeting of the American Society of Biochemistry and Molecular Biology (May, 1998) and was highly impressed with his scientific knowledge and enthusiasm.

[REDACTED] at the Institute of Microbiology in Beijing, describes the petitioner's work as a research assistant at the institute in the [REDACTED]

[The petitioner's] work at this department involved the study of the structure, function, and mechanism of the thermostable enzyme... [The petitioner] successfully purified a thermostable pullulanase, which is extremely difficult due to low expression. He then characterized many important properties of this enzyme. His research paved the way to the full understanding of the mechanism of thermostability for this enzyme. His result was published in the [REDACTED]

[REDACTED] collaborated with the petitioner on a research project aimed at understanding the interactions involved in binding potent inhibitors to serine proteases, and served as a member of the petitioner's dissertation committee [REDACTED] repeats information provided by previous witnesses and speculates on the future significance of the petitioner's work.

The petitioner's expertise in protein NMR (nuclear magnetic resonance) spectroscopy will be particularly valuable to biomedical research in the U.S.... Already, protein NMR is being used to determine structures of small proteins in solution, and it is reasonable to expect that protein structure determination using NMR will become a key element in drug development in the very near future.

[REDACTED] Research Scientist at the [REDACTED] in New Jersey, states:

The petitioner's presentation at the [REDACTED] and Molecular Biology (ASBMB) 1998 Annual Meeting first attracted my attention to his research. I am very interested in the Nuclear Magnetic Resonance Imaging (NMR) methods which he utilized in his study on serine protease. These methods provide information about protein-inhibitor (drug) interaction and could be used for other targets as well. Also, the analysis

can be done rapidly and without the special requirement of the sample (regular protein) making it possible to be used for drug screening. I am seriously considering collaborating with [the petitioner's] research group on several of our company's more important research projects.

Along with the witness letters, the petitioner provides additional documentation establishing the undoubted importance of research related to Alzheimer's disease, stroke, and cardiovascular disease. Pursuant to published precedent, the overall importance of a given occupation is insufficient to demonstrate eligibility for the national interest waiver. While the Service recognizes the importance of research related to Alzheimer's disease, stroke, and cardiovascular disease, eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. In other words, we generally do not accept the argument that a given project is so important that any alien qualified to work on this project must also qualify for a national interest waiver. By law, advanced degree professionals and aliens of exceptional ability are generally required to have a job offer and a labor certification. A statute should be construed under the assumption that Congress intended it to have purpose and meaningful effect. Mountain States Tel. & Tel. v. Pueblo of Santa Ana, 472 U.S. 237, 249 (1985); Sutton v. United States, 819 F.2d 1289, 1295 (5th Cir. 1987). By asserting the petitioner's employment as a biochemical researcher inherently serves the national interest, counsel for the petitioner essentially contends that the job offer requirement should never be enforced for this occupation, and thus this section of the statute would have no meaningful effect.

The petitioner also submits evidence of two articles he co-authored that were published in *American Chemical Society* in 1998 and the *Chinese Journal of Microbiology* in 1994. 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," even among researchers who have not yet begun "a full-time academic and/or research career." When judging the influence and impact of the petitioner's work, 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 findings. Frequent citation by independent researchers, on the other hand, demonstrates more widespread interest in, and reliance on, the petitioner's work. The petitioner has failed to provide a citation history of his published works demonstrating that his research has garnered significant attention throughout the field.

The director requested further evidence that the petitioner has met the guidelines published in Matter of New York State Department of Transportation. In response, the petitioner submits a statement from counsel, more documentation related to his field of research, and six additional witness letters that repeat information contained in the previous testimonials. Three of these letters

are second submissions from [REDACTED]

[REDACTED] describes the petitioner as having conducted breakthrough conformational analysis of drug products. In research projects referred to [REDACTED] [REDACTED] credits the petitioner with using state-of-the-art technologies such as Nuclear Magnetic [REDACTED] (NMR). [REDACTED] states that the petitioner's NMR studies "will facilitate the design of better drug molecules to regulate the function of controlling blood coagulation." Other witnesses state that the petitioner's recent work utilizing NMR provides new biochemical and structural insights into the subtilisin BPN protopeptide. Many of the witnesses describe the petitioner's skilled use of NMR technology to analyze proteins and enzymes, but it has not been established how the petitioner's research efforts have significantly impacted the field. Nor has it been established that the petitioner's projects are inherently more important than projects underway at other research institutions, or that progress in protein or enzyme research utilizing NMR is limited to the petitioner's research projects.

The petitioner submits evidence of an article he co-authored with [REDACTED] and [REDACTED] that was published in the *Journal of the American Chemical Society* in 1999. Also submitted is a 1999 article by [REDACTED] containing a single citation of the 1999 article co-authored by the petitioner. Counsel notes that the petitioner received his [REDACTED] from [REDACTED] on May 19, 1999, and obtained employment as a postdoctoral research fellow at [REDACTED]. Witness letters describe the petitioner's research at [REDACTED] the enzyme system in the liver responsible for metabolizing drugs and chemicals in the human body. The evidence and events described above occurred subsequent to the filing of the petition. The petitioner must establish eligibility at the time of filing. See Matter of Katigbak, 14 I&N Dec. 45, 49 (Comm. 1971).

Counsel argues persuasively that the petitioner's field of biomedical chemistry possesses substantial intrinsic merit, and that, the petitioner's work is, by nature, national in scope because of the universal applicability of the petitioner's research results.

The director denied the petition, stating that the petitioner failed to establish that a waiver of the requirement of an approved labor certification would be in the national interest of the United States. The director noted a lack of evidence demonstrating that the petitioner's research has garnered sufficient recognition in his field of expertise.

The petitioner's witness letters are primarily from faculty members and researchers at universities and institutions where the petitioner has studied or worked. The witness letters also include two individuals who became acquainted with the petitioner after observing his presentation at American Society of Biochemistry and Molecular Biology's annual meeting in 1998. We note that the record reflects little formal recognition or awards for the petitioner's work, arising from various groups taking the initiative to recognize the petitioner's contributions, as opposed to private letters solicited from selected witnesses expressly for the purpose of supporting the visa petition. Independent evidence that would have existed whether or not this petition was

filed is more persuasive than subjective statements from individuals personally acquainted with the petitioner.

Several of the witnesses describe the petitioner's background and skills as a researcher, but offer limited information regarding the petitioner's specific contributions having a significant impact in the field of biochemistry. A number of witnesses, such as [REDACTED] and [REDACTED] assert their confidence in the future significance of the petitioner's work. The witnesses' use of phrases such as "will have a positive impact" and "will clearly benefit" in describing the petitioner's efforts seem to suggest future results rather than a past record of demonstrable achievement. [REDACTED] oversees the petitioner's research projects investigating cytochrome P450 enzymes. [REDACTED] "[The petitioner] has been working on developing approaches that should be extremely useful for investigation of the P450 enzyme-substrate interactions." He adds that the petitioner's work "will eventually benefit" drug discovery and development. Witness statements attesting to the future significance of the petitioner's work and his expertise in Nuclear Magnetic Resonance are insufficient to demonstrate eligibility for the national interest waiver.

In concluding his first letter, [REDACTED] states that the petitioner's "exceptional expertise and experience will not only enable him to be a productive and motivated scientist, but will significantly benefit the American pharmaceutical and biotechnology industry." In accordance with the statute, exceptional ability is not by itself sufficient cause for a national interest waiver. The benefit that the petitioner presents to his field of endeavor must greatly exceed the "achievements and significant contributions" contemplated in the regulation at 8 C.F.R. 204.5(k)(3)(ii)(F). The petitioner must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. It cannot suffice to state that the petitioner possesses useful skills, or a "unique background." As noted previously, regardless of the alien's particular experience or skills, even assuming they are unique, the benefit the alien's skills or background will provide to the United States must also considerably outweigh the inherent national interest in protecting U.S. workers through the labor certification process.

On appeal, counsel argues that the director failed to consider the evidence submitted. Counsel cites the testimonial letters as evidence that the petitioner has demonstrated a level of success and future promise which "has impacted the pharmaceutical industry to a substantially greater degree than the majority of his colleagues." Of the nine witnesses offered by the petitioner, three were on the faculty [REDACTED] three collaborated with the petitioner or [REDACTED] on various research projects, and one is a Senior Scientist [REDACTED] where the petitioner is currently employed. Only two of the nine witnesses have not supervised, employed, taught, or collaborated with the petitioner. The letters offered by these two witnesses [REDACTED] and [REDACTED] are reflective of some limited attention the petitioner's ongoing research utilizing Nuclear Magnetic Resonance has received in the Mid-Atlantic region. However, they fail to demonstrate evidence of the petitioner's significant influence upon the biochemistry field as a whole. The testimonial letters submitted are indicative of the petitioner's expertise and value to his research projects at [REDACTED] and [REDACTED] but fail to

demonstrate that he is responsible for especially significant progress in the fields of analytical or medicinal chemistry. The petitioner has not established that his research has consistently attracted significant attention outside of the universities or institutions where he has conducted research.

Witnesses, such as [REDACTED] the petitioner's published findings. The record contains no evidence that the presentation or publication of one's work is a rarity in biomedical research. Nor does the record sufficiently demonstrate that independent researchers have heavily cited or relied upon the petitioner's work in their research. The petitioner's participation in the authorship of only two published articles prior to the filing of the petition may demonstrate that his efforts yielded some useful and valid results; however, the impact and implications of the petitioner's findings must be weighed. The overall record fails to demonstrate that the petitioner has garnered significant attention from other researchers in the biochemistry field. A single citation of the petitioner's published work subsequent to the filing of the petition is not reflective of a significant impact in the biochemistry field. Without additional evidence reflecting independent citation of the petitioner's work, we find that the petitioner has not significantly distinguished his results from those of other researchers in the field. It can be expected that if the petitioner's published research was truly significant, it would be cited more frequently.

Counsel also questions the director's determination regarding the speculative nature of the petitioner's research. Counsel states: "The Service would have us believe that no such research is worth the undertaking because of its speculative disposition." Counsel's conclusion is unfounded and digresses from the issue in this case. The Service does not dispute the speculative and experimental nature of scientific research. The issue in this case, however, is whether this particular petitioner has established a proven record of achievements and contributions of significance to his field of endeavor beyond mere speculation. Congress plainly intended that, as a matter of course, advanced degree professionals should be subject to the job offer/labor certification requirement. The national interest waiver is not merely an option to be exercised at the discretion of the alien or his employer. Rather, it is a special, added benefit that necessarily carries with it the additional burden of demonstrating that the alien's admission will serve the national interest of the United States. It cannot suffice for the petitioner to simply enumerate the potential benefits of his work. To hold otherwise would eliminate the job offer requirement altogether, except for advanced-degree professionals whose work was of no demonstrable benefit to anyone. Pursuant to published precedent, the petitioner must establish a past history of demonstrable achievement with some degree of influence on the field as whole.

Counsel argues that, contrary to the director's decision, the petition was never premised on a shortage of U.S. workers. We find that the director was merely addressing the statement from Professor Jordan indicating that medicinal chemists with expert knowledge in structure-based methodology "are extremely rare and are in the highest of demand."

While the Service recognizes the importance of biomedical research, eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. In other words, we generally do not accept the argument that a given project is so important that any alien

qualified to work on this project must also qualify for a national interest waiver. We do not dispute that the petitioner's work has yielded original results at [REDACTED] but it is not apparent that an accredited university will generally grant a doctorate in recognition of unoriginal work.

The issue in this case is not whether the advances in the field of medicinal and protein chemistry are in the national interest, but rather whether this particular petitioner, to a greater extent than U.S. workers having the same minimum qualifications, plays a significant role. There is insufficient evidence that researchers outside of the petitioner's universities and employers regard his work to be of greater significance than that of other researchers. Rather, many key witnesses have couched their remarks not in terms of what the petitioner has done, but what he is likely to achieve at some unspecified future point. While the petitioner certainly need not establish national fame as a researcher, the claim that his research is especially significant would benefit greatly from evidence that it has attracted significant attention outside of his educational institution and research groups.

At issue is whether this petitioner's contributions in the field are of such unusual significance that the petitioner merits the special benefit of a national interest waiver, over and above the visa classification he seeks. By seeking an extra benefit, the petitioner assumes an extra burden of proof. Without evidence that the petitioner has been responsible for significant achievements in the fields of analytical and medicinal chemistry, we must find that the petitioner's assertion of prospective national benefit is speculative at best. While the high expectations of the petitioner's instructors and associates may yet come to fruition, at this time the waiver application appears premature.

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, U.S.C. 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.