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**U.S. Citizenship
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Date: OCT 29 2008

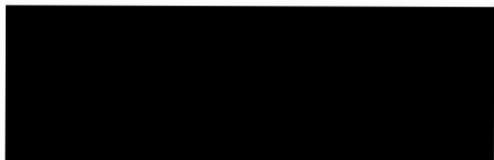
IN RE:

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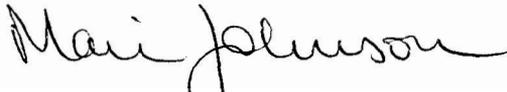
PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

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.


2 Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) 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, who holds degrees both in law and in medicine, describes himself as a “Research Scientist” specializing in “Investigation of terrorist explosions/forensic medicine, public health and law/ethics.” At the time he filed the petition, the petitioner was a research fellow at Harvard School of Public Health. 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 has 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:

(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.

(i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements 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 director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention 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 the pertinent 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 regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service [now Citizenship and Immigration Services (CIS)] 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, 22 I&N Dec. 215 (Commr. 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 also note that the regulation at 8 C.F.R. § 204.5(k)(2) defines “exceptional ability” as “a degree of expertise significantly above that ordinarily encountered” in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

In a statement accompanying the initial filing of the petition, the petitioner described his intended work:

The primary areas in which I am planning to be of use to the United States is through the experience I have gained investigating terrorist explosive attacks in my home country, Sri Lanka. . . .

I propose to provide services in investigations of terrorist explosions anywhere in the world that has a US interest. For example after a terrorist explosion in a crowded environment . . . [i]t will be very difficult for some one without the experience to say who was a victim and who was a perpetrator. By carefully examining the scene, obtaining histories from survivors, examining clothing, external examination of the body and autopsy, I will be able to provide information that would help a team of investigators to say which body was that of a victim

and which was one of a carrier of an explosive. . . . The conclusions I [reach] would be key in preventing such threats and would be in the National Interest.

The petitioner did not explain how his ability to distinguish the body of a bomber from the body of a victim “would be key in preventing such threats” (as opposed to identifying perpetrators, and ultimately their associates, after the fact). The petitioner continued:

As the writers of my recommendation letters have well explained, my expertise in public health, medical law and ethics and my computer skills also make my residence here in the National Interest of the United States.

My experience in public health involves developing, implementing, managing and evaluation research of large-scale HIV prevention programmes. Within this broad field, I am one of the few people able to bring in the legal policy framework into programme management, being a physician and a lawyer.

On Form ETA-750B, Statement of Qualifications of Alien, the beneficiary described his past work experience:

Department of Forensic Medicine, University of Kelaniya, Ragama, Sri Lanka
Lecturer in Charge/Acting Head of Department, 11/1993 – 6/1997

I was responsible for the overall establishment of the Department and all its functions. . . . I was also responsible for the judicial work including investigations of homicides, suicides and accidents. . . . I (main author) published the first report of patterns related to terrorist suicide bombers in Sri Lanka ever to be documented at the Annual Scientific Sessions of the Medico-legal Society of Sri Lanka during this period.

Independent Consultant in Forensic Medicine / University Grants Commission / World Health Organization

Consultant Forensic Medicine / Coordinator, National Centre for Advanced Studies (NCAS) / Director Institute of Ind[i]genous Medicine / Consultant, WHO/UNAIDS, 7/1997 – 8/2005

I provided documentary and oral evidence to different courts of Sri Lanka related to court proceedings in which I had conducted Forensic Clinical Examinations or Judicial Autopsies. . . . As UNAIDS and WHO Consultant, I provi[ded] Technical Assistance to the Government in matters related to legal, ethical, public health and programmatic aspects of HIV/AIDS.

Harvard School of Public Health, Boston, MA

Research Fellow, 9/2005 – Current

Responsibilities include participating in review of human research protocols to interpret, analyse, and apply federal regulations at different Ethical Review Committees in Harvard. Issues discussed ranged from basic ethical issues such as confidentiality, informed consent and responsibility to the study subjects, to complicated issues in biotechnology ethics such as dilemmas in translation of genetic information for human health needs, conduct of genetic

research, use of surrogate wombs, timelines for stem cell research, commercial use of genetic information and technologies, bearing of the genome on race and ethnicity and intellectual property rights of genetically acquired information.

The petitioner listed numerous books, articles and papers he wrote, co-wrote or edited. The listed titles cover a range of topics, from forensic medical aspects of terrorist explosions to human rights issues to "Electronic Patient Relationship Management." The list itself, however, is not evidence of publication. The petitioner's initial submission included copies (some of them incomplete) of various articles, manuscripts, abstracts and other writings, along with two of the petitioner's books. Only two of the submitted documents (a paper presented at a 1996 conference and a book from 2006) relate directly to terrorism. Several more papers address various aspects of HIV/AIDS prevention, which the petitioner had identified as a secondary basis for the waiver. While the petitioner has established that he has written on diverse important subjects, his initial submission included no evidence to establish the impact of those writings.

We note that both of the petitioner's submitted books were published by the self-publishing firm Wasteland Press in December 2006, only weeks before the petitioner filed the petition in January 2007. (In an introductory note to one book, the petitioner acknowledged the lack of a "vigorous editorial process.") Despite their recent publication, both books reflect work the petitioner had performed years earlier; one book is a modification of his master's thesis from 1997. The timing and manner of their publication is consistent with the conclusion that the petitioner arranged for their publication in order to support the petition.

Copies of news articles mentioned the petitioner, who was typically quoted in his capacity as a local official of UNAIDS (the Joint United Nations Program on HIV/AIDS). These materials do not establish the petitioner's prominence in his field, nor do they show that he will serve the national interest to a greater extent than others who work in the same important fields as the petitioner.

The petitioner's initial filing included ten witness letters. The witnesses have either worked with the petitioner in some capacity, in academia or through United Nations projects, or have known the petitioner for decades and are therefore familiar with his work. Many of the letters follow the same general pattern, praising the petitioner's unusually broad expertise in medicine and law and singling out specific achievements, such as the frequently repeated claim that the petitioner was among the first researchers in Sri Lanka to study cases of suicide by plastic bag suffocation. (The witnesses do not explain why, from the perspective of the United States, it is significant that the petitioner was among the first in Sri Lanka to conduct such research.) In addition to the forensic study of victims of terrorism, a number of witnesses highlighted the petitioner's work with United Nations organs such as the World Health Organization to combat HIV/AIDS. Rather than cite specific achievements, the witnesses focused largely on the petitioner's broad range of expertise, and asserted that an individual of such diverse talents must surely benefit the United States.

An example letter is from [REDACTED], Associate Dean of the Heller School for Social Policy at Brandeis University. Dr. [REDACTED] stated that the beneficiary's "unique combination of expertise positions him to make a great contribution to the academic environment in the United States. . . . Professionals who are qualified both in medicine and law are scarce and extremely useful for this country" Dr. [REDACTED] listed some of

the petitioner's accomplishments but did not explain how those achievements compare to those of others in the same fields. Expertise in both medicine and law may be relatively rare as [REDACTED] claims, but this is not by itself an argument in favor of granting the national interest waiver. It cannot suffice to state that the alien possesses useful skills, or a "unique background." 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. *Matter of New York State Dept. of Transportation* at 221.

On April 2, 2008, the director issued a request for evidence (RFE). In that notice, the director noted that the petitioner's work in biomedical ethics at the Harvard School of Public Health is "in a completely different area" relative to the petitioner's proposed "services in investigations of terrorist explosions." The director also found that the petitioner had not established "any influence on the field," and asserted that the terrorism situation in the United States is not comparable to that in Sri Lanka. The director requested evidence of that influence, such as independent citations of the petitioner's work.

In response, counsel stated that the tactics of the Sri Lankan Tamil Tigers are widely imitated, and therefore the petitioner's "discoveries about Tamil Tigers' tactics are likely to be helpful for the Homeland Security's research efforts in counter terrorism against Al Qaeda." Counsel also asserted that the petitioner is able to examine the aftermath of a suicide terrorist bombing and distinguish the perpetrator from the victims. The director did not question the petitioner's skills in this area. Nevertheless, these skills do not automatically or inherently qualify the petitioner for a national interest waiver. There is no presumption that only the petitioner possesses these skills, or that it is in the national interest to ensure that the petitioner, rather than a qualified United States worker, performs these investigations. Discussions of the nature of the petitioner's work speak to its intrinsic merit and national scope, but do not address the individual merits of the petitioner.

Counsel stated that the petitioner's "past work of investigations of terrorist attacks and his current position in biomedical ethics research are subcategories of Forensic Medicine in which he has a Doctoral Degree. Therefore, his work as a whole qualifies for proposed future benefits." While the two areas can be grouped together under one category if that category is sufficiently broad, it remains that the petitioner has predicated his waiver claim primarily (but not entirely) on his work investigating terrorist explosions – an area in which he appears to have performed little new research since *circa* 1996. The petitioner's work in subsequent decades suggests either that the petitioner's interests have shifted to other concerns, or that he has been unable to secure employment in that area and has therefore had to explore other areas.

Counsel stated that the beneficiary "will keep his present job as a Biomedical Ethics Research Officer, until his immigration status is resolved since his immigration status has been a barrier to get US federal grants for his research on investigations of explosive attacks." This claim would have been more plausible if the record showed that the petitioner focused on such investigations outside the United States, and had been forced into other areas only because of his immigration status in the United States. The record, however, shows otherwise. The petitioner's work branched away from terrorism studies many years before he arrived in the United States in 2005.

Counsel claims that the petitioner's "present work is related to his field of expertise in terrorist explosive attacks" because "[m]any American researchers conduct their research activities in countries and regions that have a very high risk of terrorist attacks," and the petitioner's work is "relevant in helping researchers to identify and avoid vulnerable situations such as avoiding risky geographical locations." Counsel's argument fails to persuade for a number of reasons. For instance, counsel does not explain why "avoiding risky geographical locations" is an issue best addressed by a medical scientist.

According to lists compiled by the petitioner himself, the petitioner has published only a handful of items relating to terrorism, with the overwhelming majority of his published writings addressing other topics such as AIDS and medical ethics. Nevertheless, counsel's 13-page response to the RFE focuses heavily on the beneficiary's work in the forensic investigation of terrorist attacks. Counsel's assertion that the petitioner intends to abandon his current work in biomedical ethics tends to diminish any arguments about the merits of that current work. The response to the RFE simply assumes tremendous demand for the petitioner's work in the investigation of terrorist explosions, without demonstrating that such demand does in fact exist.

The petitioner submitted a partial copy of *Terrorism 2002-2005*, a report issued by the Federal Bureau of Investigation (FBI), Counterterrorism Division. The petitioner submitted, from that report, a bar graph of "Terrorist Incidents in the United States 1980-2005," showing 63 incidents from 1998 to 2005. Counsel cited these figures to support the claim that the petitioner serves the national interest through his skill in identifying suicide bombers among casualties in the aftermath of an attack. Counsel, however, did not specify how many of those 63 terrorist incidents actually involved individual suicide bombers wearing bombs (which is the petitioner's oft-stated area of specialized expertise).

The complete FBI report, available at http://www.fbi.gov/publications/terror/terrorism2002_2005.htm (visited October 15, 2008), does not indicate that individual suicide bombers have ever caused any casualties in the United States. Rather, according to the report, "The September 11 [2001] attack . . . marked the first known suicide terrorist attack carried out in the United States since the FBI began keeping terrorist records." That attack involved airplanes rather than the concealed explosives so integral to the petitioner's own research. The report's "Chronological Summary of Terrorist Incidents in the United States 1980-2005" reveals only two fatal terrorist incidents in the United States after "the first known suicide terrorist attack" on September 11, 2001, neither of which involved bombs. Anthrax contamination of mail claimed five lives in the autumn of 2001, and two people were shot to death at Los Angeles International Airport on July 4, 2002. Counsel cited the figure of "63 incidents" from 1998 to 2005, but failed to note that 57 of those incidents did not involve fatalities. Forty-eight of those incidents were property crimes committed by environmental or animal rights extremist groups. Therefore, counsel's reliance on the "63 incidents" statistic is grossly misleading.

To establish his impact on his field, the petitioner submitted copies of three letters inviting him to give presentations on terrorism at various universities. Two of the letters dated from 2008, well after the petitioner's January 2007 filing date. The remaining letter, from [REDACTED] of the Kings College Institute of Psychiatry at the University of London, is dated January 8, 2007, about a week before the petitioner filed his petition. Dr. [REDACTED] acknowledged the petitioner's recently published book on forensic analysis of injuries caused by terrorist explosions, and stated: "An interesting difference in a suicide bomber as opposed to any other person contemplating on suicide is the absence of minimalism of the self-destructive intent. As

you know, therefore, your expertise is extremely relevant area for us.” The relationship of psychiatry to the beneficiary’s stated field of endeavor appears to be tenuous at best. The petitioner’s book is about the injuries inflicted by a suicide bomber, rather than about the bomber’s internal motivation.

It is understandable to desire to understand the mental processes of a suicide bomber, but the petitioner’s book on the forensics of bomb-related injuries would seem to give little insight into this question. It is not clear how a book about forensic medicine came to the attention of the Psychiatry department of the University of London a few weeks after the petitioner self-published the book through a United States vanity press.

New letters accompanied the petitioner’s response to the RFE. For instance, Dr. [REDACTED], Head of the International Centre for Political Violence and Terrorism Research, Singapore, states that the petitioner “is one of the few experts globally with experience and training in the investigation of human remains following terrorist bomb explosions,” in part because the frequency of terrorist bombings in his native Sri Lanka “provides a vast amount of experience to forensic investigators.” Dr. [REDACTED] stated that the petitioner is “a sought after practitioner in terrorist explosions research,” but did not specify by whom the petitioner is “sought after” in this way. Dr. [REDACTED] asserted that the petitioner’s “book titled ‘Forensic Medicine and Medical Law’ . . . is a standard textbook on the subject of Forensic Medicine for medical students in Sri Lanka.” While the record contains some evidence to show the book’s popularity in Sri Lanka since its 1995 publication, there is little evidence of its use outside that country. (Excerpts in the record show that the book was published in English, indicating that lack of use outside Sri Lanka cannot be attributed to a language barrier.) Also, when the issue is the petitioner’s importance to the national interest of the United States, his reputation within Sri Lanka is of secondary concern.

[REDACTED] claimed that the petitioner’s current research at Harvard involves terrorist bombings, but the only evidence submitted to support this is a new article that appeared in the January/February 2008 issue of *Disaster Medicine*, a year or so after the petition’s filing date. The petitioner’s co-authors are all based in Sri Lanka, and there is no indication that the article arose from research that the petitioner undertook in his official capacity as a research fellow at the Harvard School of Public Health. [REDACTED] Senior Research Officer of the Committee on the Use of Human Subjects in Research (CUHS) at Harvard University, stated only that the “wide variety of issues” involved in the petitioner’s current work includes “reviewing protocols that have an association with terrorism,” rather than the medical forensics involved in investigating the aftermath of such attacks. The petitioner did not work at CUHS until June 2007, several months after the petition’s filing date, and therefore the nature of his intended work at CUHS could not have played a role in the petitioner’s initial claims regarding the waiver. New developments after the petition’s filing date cannot retroactively establish that the petitioner was already eligible for the benefit sought as of the filing date. See *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971), which requires that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition.

Counsel asserted that the petitioner’s “book has been cited in Wikipedia.” The petitioner submitted printouts from two Wikipedia articles, http://en.wikipedia.org/wiki/Suicide_bomber (which has since been retitled “Suicide attack”) and http://en.wikipedia.org/wiki/Cadaveric_spasm. Because Wikipedia is an open, user-edited medium, citation of the petitioner’s work in a Wikipedia article is not strong evidence of independent

use of the petitioner's work.¹ Wikipedia maintains editing histories of its articles, and according to <http://en.wikipedia.org/wiki/Special:Contributions> (visited October 15, 2008), a user identified only by the IP address made additions to the following five Wikipedia articles over the course of 48 minutes on July 27, 2007:

Title of article	Nature of addition
Cadaveric spasm	A citation of the petitioner's book under "References" and, in a separate edit seven minutes later, three sentences of text in the body of the article.
Suicide attack	A citation of the petitioner's book under "Further reading."
HIV/AIDS in Asia	Language regarding AIDS in Sri Lanka.
List of Sri Lankans	The petitioner's name, added to a list of Sri Lankan writers.
	Language referring to the appointment of Jayasuriya (a Sri Lankan cricket player) as "a UN Goodwill Ambassador . . . for his commitment to prevention of HIV/AIDS among young people in Sri Lanka."

The Wikipedia edits made by user concern Sri Lanka, HIV/AIDS, suicide attacks and forensic medicine, all of which are documented areas of interest for the petitioner. Also, most of the edits consisted of insertions of the petitioner's name and related information. Given the open nature of Wikipedia, it is possible that the petitioner made the above edits himself.

In denying the petition on June 10, 2008, the director noted that, while the petitioner stated that he proposes to serve the national interest by assisting in investigations of terrorist bombings, the petitioner's work since 1996 has been predominantly "in unrelated or tangentially related fields." The director concluded that the petitioner likely intends to continue his recent research work in the United States, rather than revive his seemingly long-dormant work investigating terrorist bombings.

The director asserted that the petitioner's expertise in terrorist explosions would be of limited use "in the United States, where such explosions have been rare." This assertion ignores the petitioner's stated intention "to provide services in investigations of terrorist explosions anywhere in the world that has a US interest."

¹ Online content from Wikipedia is subject to the following general disclaimer:

Wikipedia is an online open-content encyclopedia, that is, a voluntary association of individuals and groups who are developing a common resource of human knowledge. Its structure allows any individual with an Internet connection and World Wide Web browser to alter the content found here. Therefore, please be advised that nothing found here has necessarily been reviewed by professionals who are knowledgeable in the particular areas of expertise necessary to provide you with complete, accurate or reliable information about any subject in *Wikipedia*.

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Source: http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, visited October 28, 2008 (emphasis in original).

Also, the petitioner's initial national interest claim did rest entirely on his claims regarding terrorist bombings (although that was the primary consideration).

On appeal, the petitioner asserts that the director "**has considered only one dimension of my expertise . . .** (namely my expertise in the investigation of terrorist explosions). In this decision the Service has not considered my expertise and experience in totality" (emphasis in original). The petitioner's initial submission focused heavily on terrorist explosions, as did most of counsel's 13-page response to the RFE. Given this consistent emphasis, the director did not err by focusing largely (but not entirely) on the area which the petitioner himself had stressed.

The petitioner discusses his work at Harvard's CUHS, but as we have already noted, the petitioner did not work at the CUHS until June 2007, several months after he filed the petition. Therefore, even if such employment were clear evidence of eligibility for the waiver, it could not qualify him for approval with a January 2007 priority date; eligibility cannot hinge on work that the petitioner had not yet begun at the time of filing. A petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to CIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 175 (Commr. 1998).

Individuals at CUHS state that the petitioner's experience with terrorist explosions will have some relevance to his work at CUHS. The petitioner, however, had specifically stated: "By carefully examining the scene, obtaining histories from survivors, examining clothing, external examination of the body and autopsy, I will be able to provide information that would help a team of investigators to say which body was that of a victim and which was one of a carrier of an explosive." There is no indication that the beneficiary's work at CUHS involves these functions. The petitioner's revisions to his waiver claim have made his latest justifications unrecognizable in comparison to his initial arguments.

Furthermore, the petitioner has not shown that his work at the CUHS qualifies him for the waiver. Certainly his work with research protocols has substantial intrinsic merit, but the petitioner has not established that it is in the national interest for him, rather than another qualified worker, to hold his current position at the CUHS. The petitioner has emphasized his experience as a researcher, but it does not appear that he would be performing any research at the CUHS. Instead, he would be acting in an advisory capacity for other researchers who were designing their own research projects.

In terms of his own research, the petitioner does not claim that his publications have been widely cited. Instead, the petitioner asserts "the use of impact factors such as the number of citations has been highly criticized as a means of evaluating how good a publication is." The petitioner attached a copy of a June 16, 2008 article from the online edition of the *Wall Street Journal*. That article indicated that citation data can be subject to misuse or misinterpretation; for instance, "[b]ad research may get cited frequently by rebuttals." But the article did not indicate that citations are inherently unreliable or useless as a gauge of published research. Instead, the article discussed possible means of weighting citation data to make citation information more precise.

The article also suggested that "impact factors could be improved by using the Google model," specifically "Google's PageRank algorithm for ranking Web pages." The petitioner states: "It should be noted that a search

of my name using 'Google' that uses the above algorithm brings out about 989 results which is very high." The PageRank algorithm, as described, does not control the number of results, only the order of their presentation. The petitioner offers no persuasive evidence to show that raw results from a search engine (which report every found incidence of the petitioner's name, regardless of context) should carry greater weight than academic citation of his published work, nor does the petitioner even establish that 989 results "is very high" – a relative term that presumes comparison against some standard that the petitioner has not identified. A number of the Google results are simply sales listings for the petitioner's self-published book.

The petitioner has documented a long and diverse career, and it seems fair to say that he possesses an unusually broad spectrum of expertise, from law to medicine. Breadth cannot substitute for depth, however, and the petitioner has not shown that his work in any discipline has had discernible, lasting impact in the United States (where he seeks to work), or even that he continues to perform his own research at all (rather than facilitate the research of others by consulting on protocols). The petitioner has demonstrated somewhat more of an impact in his native Sri Lanka, but he does not seek to work in Sri Lanka, nor has he shown that his work there has reverberated significantly in the United States.

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, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

This denial is without prejudice to the filing of a new petition by a United States employer accompanied by a labor certification issued by the Department of Labor, appropriate supporting evidence and fee.

ORDER: The appeal is dismissed.