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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: **AUG 19 2010**
LIN 08 221 52544

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is an education and research institution. 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 staff scientist. The director determined that the petitioner had not established that the beneficiary had attained the outstanding level of achievement required for classification as an outstanding researcher.

On appeal, the petitioner submits a statement and additional evidence, some of which was submitted previously and is already part of the record of proceeding. For the reasons discussed below, we uphold the director's ultimate conclusion that the petitioner has not established the beneficiary's eligibility for the classification sought. This decision is without prejudice to the pending petition in behalf of the beneficiary seeking benefits pursuant to section 203(b)(2)(B) of the Act.

I. Law

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 current or former 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 August 4, 2008 to classify the beneficiary as an outstanding researcher in the field of leukemia research. Therefore, the petitioner must establish that the beneficiary had at least three years of teaching or research experience in the field as of that date, and that the beneficiary's work has been recognized internationally within the field as outstanding. At issue is whether the petitioner has demonstrated that the beneficiary's work has been recognized internationally as outstanding.

The regulation at 8 C.F.R. § 204.5(i)(3)(i) states 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 the following six criteria, of which the beneficiary must submit evidence qualifying under at least two.

(A) Documentation of the alien's receipt of major prizes or awards for outstanding achievement in the academic field;

(B) Documentation of the alien's membership in associations in the academic field which require outstanding achievements of their members;

(C) 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;

(D) 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;

(E) Evidence of the alien's original scientific or scholarly research contributions to the academic field; or

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

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under a similar classification set forth at section 203(b)(1)(A) of the Act. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion. With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while U.S. Citizenship and Immigration Services (USCIS) may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations.¹ Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)). The court also explained the "final merits determination" as the corollary to this procedure:

If a petitioner has submitted the requisite evidence, USCIS determines whether the evidence demonstrates both a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2), and "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(3). Only aliens whose achievements have garnered "sustained national or international acclaim" are eligible for an "extraordinary ability" visa. 8 U.S.C. § 1153(b)(1)(A)(i).

Id. at 1119-20.

¹ Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) (comparable to 8 C.F.R. § 204.5(i)(3)(i)(D)) and 8 C.F.R. § 204.5(h)(3)(vi) (comparable to 8 C.F.R. § 204.5(i)(3)(i)(F)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination.² While involving a different classification than the one at issue in this matter, the similarity of the two classifications makes the court's reasoning persuasive to the classification sought in this matter. In reviewing Service Center decisions, the AAO will apply the test set forth in *Kazarian*. As the AAO maintains *de novo* review, the AAO will conduct a new analysis if the director reached his or her conclusion by using a one-step analysis rather than the two-step analysis dictated by the *Kazarian* court. See 8 C.F.R. 103.3(a)(1)(iv); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003) (recognizing the AAO's *de novo* authority).

II. Analysis

A. Evidentiary Criteria³

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

The petitioner submitted evidence that the beneficiary is a member of the American Society of Hematology (ASH) and the Australian Institute of Medical Scientists (AIMS). The petitioner submitted evidence that ASH membership is open to individuals with a doctoral degree or equivalent who have manifested an interest in hematology "as evidenced by work in the field, original contributions and attendance at meetings concerning hematology." An applicant must submit his or her curriculum vitae and bibliography. According to the materials submitted by the petitioner, AIMS assesses the qualifications of medical scientists and medical laboratory technical officers migrating to Australia and that membership in AIMS "is the first step towards professional identify."

The director concluded that the petitioner had not submitted qualifying evidence under 8 C.F.R. § 204.5(i)(3)(i)(B). Counsel does not challenge this conclusion on appeal. Without additional evidence regarding how ASH evaluates membership applications, we cannot conclude that ASH requires outstanding achievements in the field. Specifically, if ASH simply confirms that the prospective member has published in the field, we are not persuaded that publication is an outstanding achievement. Specifically, the Department of Labor's Occupational Outlook Handbook states with respect to the biological sciences that a "solid record of published research is essential in obtaining a permanent position performing basic research, especially for those seeking a permanent college or university faculty position." See www.bls.gov/oco/ocos047.htm (accessed August 16, 2010 and incorporated into the record of proceeding).

² The classification at issue in *Kazarian*, section 203(b)(1)(A) of the Act, requires qualifying evidence under three criteria whereas the classification at issue in this matter, section 203(b)(1)(B) of the Act, requires qualifying evidence under only two criteria.

³ The petitioner does not claim to meet or submit evidence relating to the regulatory categories of evidence not discussed in this decision.

Moreover, the regulation at 8 C.F.R. § 204.5(i)(3)(i)(B) requires evidence of membership in associations in the plural. AIMS appears to merely confirm an applicant's credentials rather than confer membership only on those with outstanding achievements.

In light of the above, the petitioner has not submitted qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)(B).

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

In response to the director's request for additional evidence, the petitioner submitted an email dated September 28, 2008, from the petitioner to his supervisor, Dr. [REDACTED], providing comments on a manuscript Dr. [REDACTED] was asked to review for possible publication. In his own letter, dated October 7, 2008, Dr. [REDACTED] asserts that the beneficiary's evaluation was "extremely useful" in Dr. [REDACTED]'s draft of his own critique of the work. The record does not establish that the journal expressly sought the beneficiary's review of the manuscript or that the beneficiary provided the actual review rather than preliminary notes ultimately used by Dr. [REDACTED] in creating his own critique. As such, the petitioner has not established that the beneficiary participated, individually or on an identifiable panel, as "the judge" of the manuscript. Regardless, this evidence postdates the filing of the petition, the date as of which the petitioner must establish eligibility. *See* 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l. Comm'r. 1971).

As we are unable to consider the evidence submitted in response to the request for additional evidence because it postdates the filing of the petition, the petitioner has not submitted qualifying evidence that meets the plain language requirements at 8 C.F.R. § 204.5(i)(3)(i)(D).

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

The petitioner has asserted that the beneficiary's original contributions include a c-Myc gene model in the development of acute myeloid leukemia (AML) and his previous work on bone marrow transplantation as described in his 1995 Master's Thesis and his 1998 doctoral thesis, both published in the *Chinese Journal of Hematology*.

The plain language of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(E) does not require that the beneficiary's contributions themselves be internationally recognized as outstanding. That said, the plain language of the regulation does not simply require original research, but original "research contributions" in the plural. Had the regulation contemplated merely the submission of original research, it would have said so, and not have included the extra word "contribution." Moreover, the plain language of the regulation requires that the contribution be "to the academic field" rather than an individual laboratory or institution. We simply note that the regulations include a separate criterion for scholarly articles at 8 C.F.R. § 204.5(i)(3)(i)(F). If the regulations are to be interpreted with any logic, it

must be presumed that the regulation views contributions as a separate evidentiary requirement from scholarly articles.

As stated above, the petitioner must establish the beneficiary's eligibility as of the date of filing. See 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. All of the case law on this issue focuses on the policy of preventing petitioners from securing a priority date in the hope that they will subsequently be able to demonstrate eligibility. *Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Reg'l. Comm'r. 1977); *Matter of Katigbak*, 14 I&N Dec. at 49; see also *Matter of Izummi*, 22 I&N Dec. 169, 175-76 (Comm'r. 1998) (citing *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981) for the proposition that we cannot "consider facts that come into being only subsequent to the filing of a petition.") Consistent with these decisions, a petitioner cannot secure a priority date in the hope that his research will subsequently prove influential. Ultimately, in order to be meritorious in fact, a petition must meet the statutory and regulatory requirements for approval as of the date it was filed. *Ogundipe v. Mukasey*, 541 F.3d 257, 261 (4th Cir. 2008). Thus, we will only consider the beneficiary's publications and citations as of the date of filing.

Regarding the beneficiary's AML model, as of the date of filing, the beneficiary had authored an article and two abstracts in *Blood*. Also as of that date, the beneficiary's article in *Blood* had garnered moderate citation. The majority of authors citing the beneficiary's work in *Blood* are independent.

In addition, the petitioner submitted email correspondence documenting a 2007 request from Professor ██████████ of Universitätsklinikum Münster requesting the beneficiary's plasmids that Professor ██████████ intended to use to transduce knock-out and/or transgenic mice; a 2008 request for the beneficiary's protocol from Dr. ██████████ at the Ontario Cancer Institute; a 2008 request for the beneficiary's protocol from ██████████, a graduate student at the Johns Hopkins School of Medicine and a 2008 request for the beneficiary's construct and additional information from ██████████, a graduate student at the Genome Institute of Singapore.

Initially, the petitioner submitted correspondence between Dr. ██████████ and Dr. ██████████ who published an article indicating that he had not been able to duplicate the beneficiary's results. Dr. ██████████ agreed to send DNA to Dr. ██████████ to determine the difference in results. Dr. ██████████, a professor at Hanyang University College of Medicine in Korea, implies that the beneficiary was able to resolve the difference in results. On appeal, Dr. ██████████, Chair of the Department of Genetics and Tumor Cell Biology at St. Jude Children's Research Hospital, states:

In 2007, my research team published a paper in *Cancer Research* reporting a rapid onset of leukemia caused by N-Myc expression on mouse bone marrow. In that paper, we also mentioned that the human c-Myc gene failed to generate leukemia in our experimental system. To set the record straight, [the beneficiary] requested our c-Myc constructs and convincingly showed that he could consistently generate AML in mice with our constructs. This achievement underlines the extraordinary technical

and intellectual abilities of [the beneficiary] and resolved a discrepancy between his and our results.

While several of the letters provide general praise and speculate as to the future impact of the beneficiary's model, Dr. [REDACTED] states that the beneficiary's article in *Blood* "attracted considerable attention in the field of leukemia research." He continues that several laboratories tried to repeat the experiment, including Dr. [REDACTED] laboratory, which obtained the same result. Dr. [REDACTED] is now collaborating with the beneficiary.

Given the above evidence in the aggregate, the letters from Dr. [REDACTED] and Dr. [REDACTED] supported by the moderate citation and the email requests, we are satisfied that the beneficiary's AML model is an original contribution to the field as a whole.

Regarding the beneficiary's work in China, the record contains the beneficiary's 1995 and 1998 publications in the *Chinese Journal of Hematology*. The record also contains evidence that the beneficiary's 1995 article has been moderately cited. Moreover, it appears from a review of the Chinese characters that the first authors (the only authors listed) are not the beneficiary or his coauthors. We now look to the letters to explain the significance of the beneficiary's research in China.

Dr. [REDACTED], Director of the Department of Hematology at [REDACTED] explains that the beneficiary developed a protocol for bone marrow transplantation that allowed the General Hospital of the Navy in China to resume its transplant program, which had been suspended due to previous transplant failures. Dr. [REDACTED] explains that he then invited the beneficiary to [REDACTED] where he trained the staff in his protocol. Dr. [REDACTED] concludes that the beneficiary's concept "is still the current trend in the field of transplantation immunology." While Dr. [REDACTED] assertions would have been bolstered by letters from other Chinese hospitals following the beneficiary's transplant protocols, his specific assertions combined with the citations and other evidence of record demonstrates that the beneficiary's work on marrow transplants constitutes an original contribution to the field of hematology.

The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as we have done above, evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158,

165 (Comm'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l. Comm'r. 1972)).

The experts in this matter have not merely reiterated the regulatory language for this criterion, they have clearly described how the beneficiary's scientific contributions are both original and a contribution to the field. At least some of these experts have explained how they are currently using the petitioner's findings in their own work.

In light of the above, the petitioner has submitted qualifying evidence that meets the plain language requirements at 8 C.F.R. § 204.5(i)(3)(i)(E).

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

The regulation at 8 C.F.R. § 204.5(i)(3)(i)(F) requires evidence of qualifying scholarly articles in the plural. Significantly, not all of the criteria at 8 C.F.R. § 204.5(i)(3)(i) are worded in the plural. Specifically, the regulation at 8 C.F.R. § 204.5(i)(3)(i)(D) only requires service on a single judging panel. *See also* 8 C.F.R. § 204.5(h)(3)(ix) (involving a similar classification that requires a single high salary). Thus, we can infer that the use of the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation.⁴

As stated above, the petitioner has established that the beneficiary has authored articles and abstracts published in *Blood* and Chinese journals. Abstracts are not articles and cannot serve to meet the plain language requirements at 8 C.F.R. § 204.5(i)(3)(i)(F). Thus, we will only consider the beneficiary's articles.

The plain language of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(F), requires that the articles appear in journals with an international "circulation." We do not question that *Blood* has an international circulation. The beneficiary, however, had only authored a single article in *Blood*. While the petitioner submitted evidence regarding the prestige of the Chinese journals, at issue is whether the petitioner has established that these journals enjoy an international circulation. The evidence submitted reveals that the Chinese journals are available electronically and, thus, are internationally available.

In today's world, many journals, regardless of distribution, post at least some of their articles on the Internet and make their articles available to large electronic databases like Medline. To ignore this reality would be to render the "international circulation" requirement meaningless. We are not persuaded that international accessibility by itself is a realistic indicator of whether a given

⁴ *See Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at 12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005 at *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials).

publication has an international circulation. USCIS may not unilaterally impose novel substantive or evidentiary requirements beyond those set forth at 8 C.F.R. § 204.5. *Kazarian*, 596 F.3d at 1221, citing *Love Korean Church v. Chertoff*, 549 F.3d 749, 758 (9th Cir.2008).

As the record contains only one scholarly article in a journal with a known international circulation, the petitioner has not submitted qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)(F).

In light of the above, the petitioner has submitted evidence that meets only one of the criteria, of which two must be satisfied to establish the minimum eligibility requirements for this classification. Specifically the petitioner submitted evidence to meet the criterion set forth at 8 C.F.R. § 204.5(i)(3)(i)(E). The next step, however, is a final merits determination that considers whether the evidence is consistent with the statutory standard in this matter, international recognition as outstanding. Section 203(b)(1)(B)(i) of the Act.

B. Final Merits Determination

It is important to note at the outset 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. More specifically, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. The regulation at issue provides criteria to be used in evaluating whether a professor or researcher is deemed outstanding. *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)).

While the petitioner has established that the beneficiary's original research amounts to a contribution to the field, the regulatory scheme clearly states that qualifying evidence under one criterion is insufficient; rather, a petitioner must submit qualifying evidence under at least two criteria.

Even if we considered the beneficiary's articles as sufficient to meet 8 C.F.R. § 204.5(i)(3)(i)(F), the OOH (accessed at www.bls.gov/oco on August 16, 2010 and incorporated into the record of proceedings), provides information about the nature of employment as a postsecondary teacher (professor) and the requirements for such a position. See www.bls.gov/oco/ocos066.htm. The handbook expressly states that faculty members are pressured to perform research and publish their work and that the professor's research record is a consideration for tenure. Moreover, the doctoral programs training students for faculty positions require a dissertation, or written report on original research. *Id.* Further, as stated above, the OOH states specifically with respect to the biological sciences that a "solid record of published research is essential in obtaining a permanent position performing basic research, especially for those seeking a permanent college or university faculty position." See www.bls.gov/oco/ocos047.htm. This information reveals that original published research, whether arising from research at a university or private employer, does not set the researcher apart from faculty in that researcher's field.

Moreover, the beneficiary's citation history is a relevant consideration as to whether the evidence is indicative of the beneficiary's recognition beyond his own circle of collaborators. *See Kazarian*, 596 F. 3d at 1122. The moderate citation and the handful of inquiries into the beneficiary's constructs as of the date of filing are not consistent with or indicative of international recognition as outstanding.

In light of the above, our final merits determination reveals that the beneficiary's qualifying evidence, original research contributions reported in articles that have not garnered widespread citation or other similar response in the academic field seems commensurate with the beneficiary's years of experience in the field and does not set the beneficiary apart in the academic community through eminence and distinction based on international recognition, the purpose of the regulatory criteria.⁵ 56 Fed. Reg. at 30705.

III. Conclusion

The petitioner has shown that the beneficiary is a talented researcher, who has won the respect of his collaborators and mentors, while securing some degree of international exposure for his work. The record, however, stops short of elevating the beneficiary to the level of an alien who is internationally recognized as an outstanding researcher or professor. Therefore, the petitioner has not established that the beneficiary is qualified for the benefit sought.

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.

⁵ While we acknowledge that the beneficiary has over ten years of experience, such experience is only one category of evidence for a lesser classification, aliens of exceptional ability pursuant to section 203(b)(2) of the Act. 8 C.F.R. § 204.5(k)(3)(ii)(B). As such, the beneficiary's experience cannot establish his eligibility under the higher classification set forth at section 203(b)(1)(B).