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PETITION

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



U.S. Citizenship
and Immigration
Services

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FILE:

LIN 03 075 51696

Office: NEBRASKA SERVICE CENTER

Date: NOV 03 2005

IN RE:

Petitioner:
Beneficiary

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

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

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a university. 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 in the United States as a research specialist in agriculture. The director determined that the petitioner had not established that it had offered the beneficiary a permanent job as of the date of filing.

On appeal, the petitioner submits additional job letters addressed to the beneficiary and his initial acceptance of the job with the petitioner. We uphold the director's decision and further conclude that the petitioner has not established that the beneficiary is recognized internationally as outstanding in his academic field, as required for classification as an outstanding researcher.

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)(iii) provides that a petition must be accompanied by:

An offer of employment from a prospective United States employer. A labor certification is not required for this classification. The offer of employment shall be in the form of a letter from:

(A) A United States university or institution of higher learning offering the alien a tenured or tenure-track teaching position in the alien's academic field;

(B) A United States university or institution of higher learning offering the alien a permanent research position in the alien's academic field; or

(C) A department, division, or institute of a private employer offering the alien a permanent research position in the alien's academic field. The department, division, or institute must demonstrate that it employs at least three persons full-time in research positions, and that it has achieved documented accomplishments in an academic field.

While not contested, we note that the ordinary meaning of an "offer" requires that it be made to the offeree, not a third party. Regulatory language requiring that the offer be made "to the beneficiary" would simply be redundant. Thus, a letter addressed to Citizenship and Immigration Services (CIS) is not a job offer within the ordinary meaning of that phrase.

The regulation at 8 C.F.R. § 204.5(i)(2), provides, in pertinent part:

Permanent, in reference to a research position, means either tenured, tenure track, or for a term of indefinite or unlimited duration, and in which the employee will ordinarily have an expectation of continued employment unless there is good cause for termination.

On Part 6 of the petition, the petitioner indicated that the proposed employment was a permanent position. The petitioner submitted the job announcement for the beneficiary's job. The announcement indicates that the job of principal research specialist is a full-time academic, non-tenure track position. As the position is not a tenure track position, the petitioner must demonstrate that it is a "permanent" position as defined in the regulations. On September 24, 2003, the director requested "a copy of the actual offer of employment made by [the petitioner] to [the beneficiary]."

In response, the petitioner submitted a letter from [redacted] Director of International Faculty and Staff Affairs at the petitioning university addressed to CIS, asserting that "all" of the petitioner's employees have "contracts which are renewed annually." Ms. [redacted] continues that the beneficiary has "what is called a 'P' appointment with the University. This means 'permanent.'" The petitioner also submitted a letter dated October 28, 2003 from [redacted] Professor and Head of the Department of Natural Resources and Environmental Sciences at the petitioning university addressed to the beneficiary. The letter confirms the renewal of the beneficiary's appointment as a research specialist in agriculture and characterizes the position as "permanent." The letter continues:

As a valued professional employee of the Department for the past nine years, we are confident that your appointment will continue to be renewed through the University's annual reappointment process since funds from Dr. [redacted] research program will be adequate to support your position for at least the next five years.

Finally, the petitioner submitted the beneficiary's review report, which lists his appointment type as "P."

The director concluded that the petitioner had not submitted the initial evidence required by the regulation, namely an offer of employment. The director further concluded that the petitioner's definition of "permanent" did not satisfy the regulatory definition of "permanent," quoted above.

On appeal, the petitioner submits the original job offer letter from the petitioner to the beneficiary dated June 12, 2001. The letter offers the beneficiary an appointment as a Research Specialist, effective August 21, 2001. The letter references enclosed information describing the general terms of employment, but that information is not included in the record. The petitioner also submitted the beneficiary's June 27, 2001 acceptance of the job offer. The petitioner further submitted an April 20, 2004 letter from Professor Jarrell addressed to the beneficiary confirming his "appointment to a permanent full-time position with [the petitioner] as a Research Specialist in Agriculture." The letter continues:

The Board's practice is to provide for renewable 9-month, 10-month or 12-month appointments. Your appointment is for a renewable 9-month appointment and the "P" designation in the "Job type" section of the Personnel Information Transmittal Report associated with your Notice of Appointment indicate[s] the position is a permanent position.

The position of Research Specialist in Agriculture is for an indefinite duration composed of successive annual renewals. The University is a public University and an arm of the State of Illinois. "Good cause" for termination at the University includes unsatisfactory performance. Due to your valuable service and the presence of funding . . . , the Department of Natural Resource and Environmental Sciences has no expectations of dismissing you from employment at this time. Your employment rights are consistent with the rights of other permanent academic professional staff.

In order to assure that your position is permanent and that neither the time nor money of you, the University or Immigration Services is wasted in the filing of unsupportable applications for legal permanent resident status, the [petitioner's] campus policy requires a unit to state its expectations to fund a position for a *minimum* of five (5) years. Postdoctoral research associates and visiting or acting positions are specifically excluded by campus policy from being eligible for University sponsorship for legal permanent resident status because such positions, unlike yours, are not viewed as permanent. The Department of Natural Resources and Environmental Sciences previously stated that funding for your position is expected to continue for at least five (5) years and this department remains committed and supportive of that position. Furthermore, the Department of Natural Resources and Environmental Sciences expects that funding for this position will continue indefinitely due to the intrinsic need for the services provided via this position in connection with the ongoing work of this department.

We note that the above letter is dated after the director's decision denying the petition.

First, we must consider whether the terms of the beneficiary's current job were the same terms of his employment as of the date of filing, or whether those terms had been offered to him as of that date. *See* 8 C.F.R. § 103.2(b)(12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). Second, we must consider whether those terms meet the regulatory definition of "permanent" quoted above.

The only evidence that predates the filing of the petition on January 6, 2003 is the June 12, 2001 job offer letter. As stated above, the referenced attached information regarding the general terms of employment are not part of the record. Thus, the petitioner has not established the terms of employment as of January 6, 2003. Nor does the record contain a job offer for a future position, other than the June 12, 2001 letter, dated prior to January 6, 2003.

We acknowledge that the petitioner continues with the same job title as specified in the June 12, 2001 letter. Thus, it could be argued that the terms and conditions stated in the reappointment letters and the review report are relevant to the terms and conditions of the beneficiary's position at the time of filing. Even if we accepted that all research specialist positions are "permanent" *as defined by the petitioner*, and the record contains no evidence that this is true, the materials that postdate the date of filing are not sufficient evidence that the petitioner's definition of "permanent" satisfies the regulatory definition. We emphasize that, regardless of the petitioner's personnel practices as applied to its entire faculty, we are bound by the regulatory definition of "permanent."

The petitioner does not contest that the beneficiary's job, while having the potential for indefinite renewals, has a specific end date. Regardless of the beneficiary's expectation for renewal, the definition requires that termination must be for good cause. The appellate letter from Professor [REDACTED] asserts that termination at the petitioning university can only be for good cause. The record, however, lacks evidence establishing whether "termination" includes only terminating employment prior to the end of the employee's term or whether it includes a failure to renew a renewable contract. While a contract that is automatically renewed absent good cause, or even insufficient funding, might be persuasive evidence in this matter, the record lacks such a contract.

In light of the above, we uphold the director's basis for denial.

Beyond the decision of the director, we find that the petitioner has not established that the beneficiary is eligible for the classification sought. An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See 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); *see also Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis).

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 six criteria, of which the petitioner must satisfy at least two. It is important to note here that the controlling purpose of the regulation is to establish international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. 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. 56 Fed. Reg. 30703, 30705 (1991). The petitioner claims to have satisfied the following criteria.¹

¹ The petitioner does not claim that the beneficiary meets any criteria not discussed in this decision and the record contains no evidence relating to the omitted criteria.

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

On his curriculum vitae, the beneficiary listed a Peace Fellowship (1985-1989) and an Egyptian Government Scholarship (1989-1991). The petitioner did not submit the award letters confirming these scholarships. Rather, the petitioner submitted information about America-Mideast Educational and Training Services (AMIDEAST), the entity that administers the Peace Fellowship. The materials define the fellowships as "postgraduate scholarships for Egyptians." The petitioner asserted that the Peace Fellowship requires academic achievements, a plan of study, TOEFL scores and recommendation letters. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Even if the petitioner had submitted evidence confirming the beneficiary's receipt of the scholarship and the related assertions of the petitioner, scholarships are generally based on past *academic* achievement, not for accomplishments in a field of endeavor. While 8 C.F.R. § 204.5(i)(3)(i)(A) references outstanding achievements in one's academic field, 8 C.F.R. § 204.5(i)(2) defines "academic field" as "a body of specialized knowledge offered for study." The definition does not include typical bases for scholarships, such as grade point average and class standing. It remains, academic study is not a field of endeavor, academic or otherwise. Rather, academic study is training for a future career in an academic field. As such, scholarships in recognition of academic achievement, such as grade point average, are insufficient. Moreover, only students compete for scholarships. Experienced experts in the field are not seeking scholarships. Thus, they are simply not indicative of international recognition in the field. Rather, they represent high academic achievements in comparison with fellow students.

Finally, the petitioner appears to assert that the beneficiary's memberships serve to meet this criterion. Memberships are more properly considered under the criterion set forth at 8 C.F.R. § 204.5(h)(3)(ii) and will be discussed below in that context.

In light of the above, the petitioner has not established that the beneficiary meets this criterion.

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

On his curriculum vitae, the beneficiary listed membership in Sigma Xi, the American Phytopathological Society, the Egyptian Phytopathological Society and the American Association for the Advancement of Science (AAAS). The only membership certificate that the petitioner submits, however, is for AAAS.

The petitioner failed to submit evidence of the membership requirements for these associations. Thus, the petitioner has not established that they require outstanding achievements of their members. Rather, the petitioner submitted evidence of the membership requirements for Gamma Sigma Delta. The record contains no evidence that the beneficiary is a member of Gamma Sigma Delta and he does not list it on his curriculum vitae. Even if we were to consider the materials submitted, they list several levels. The petitioner has not documented the beneficiary's membership level. We note that graduate students need only demonstrate a certain grade point and "great potential for future leadership." Thus, the record does not reflect that Gamma Sigma Delta requires

outstanding achievements of their general membership. Moreover, "the faculty at the local chapter level" makes the final membership decisions. While the regulation makes no specific reference to those who judge membership, we cannot conclude that membership decisions made by one's own professors or colleagues locally are indicative of or consistent with international recognition.

In light of the above, the petitioner has not established that the beneficiary meets this criterion.

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

The petitioner submitted several published articles that cite the beneficiary's articles. Articles which cite the beneficiary's work are primarily about the author's own work, not the beneficiary's work being cited. As such, they cannot be considered published material about the beneficiary's work.

Evidence of the alien's participation, either individually or on a panel, as the judge of the work of others in the same or an allied academic field

The record reflects that the beneficiary served on the thesis defense committee for a Ph.D. candidate and a Masters candidate. The record reflects that the petitioner served on the theses defense committees when he was a visiting research associate at the petitioning university. The degree candidates were students at that institution. While serving as an outside or external member of a thesis committee may be indicative of wider recognition, we are not persuaded that judging the work of students at one's own institution while on the staff of that institution is indicative of international recognition. Thus, this service cannot satisfy this criterion.

In addition, the petitioner submitted evidence that the beneficiary has refereed articles for *Plant Disease* and *Mycological Research*. The record reflects that the journals requested that the beneficiary's advisors or collaborators, Professors [REDACTED] and [REDACTED] review the articles. These professors then assigned the duty to the beneficiary. While Professor [REDACTED] may have attested to the beneficiary's recognition in his field in her request, being requested to review an article by one's own advisor or collaborator is not indicative of international recognition.

Moreover, we cannot ignore that scientific journals are peer reviewed and rely on many scientists to review submitted articles. Thus, peer review is routine in the field; not every peer reviewer enjoys international recognition. Without evidence that sets the beneficiary apart from others in his field, such as evidence that he has reviewed an unusually large number of articles, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, we cannot conclude that the beneficiary meets this criterion.

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

Obviously, the petitioner cannot satisfy this criterion simply by listing the beneficiary's past projects, and demonstrating that the beneficiary's work was "original" in that it did not merely duplicate prior research. Research work that is unoriginal would be unlikely to secure the beneficiary a master's degree, let alone classification as an outstanding researcher. Because the goal of the regulatory criteria is to demonstrate that the

beneficiary has won international recognition as an outstanding researcher, it stands to reason that the beneficiary's research contributions have won comparable recognition. To argue that all original research is, by definition, "outstanding" is to weaken that adjective beyond any useful meaning, and to presume that most research is "unoriginal."

The petitioner submitted several reference letters, mostly from his collaborators or close colleagues. While such letters are important in providing details about the petitioner's role in various projects, they cannot by themselves establish the petitioner's international recognition. Simply having worked in more than one country and, thus, having colleagues in more than one country, cannot serve to meet the international recognition standard. Moreover, the opinions of experts in the field, while not without weight, cannot form the cornerstone of a successful claim. The AAO may, in its discretion, use as advisory opinion statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, the AAO is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988). Evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with international recognition should be able to produce unsolicited materials reflecting that recognition.

Finally, in evaluating the reference letters, we note that letters containing mere assertions of ability, widespread recognition and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. In addition, letters from independent references who were previously aware of the petitioner through his reputation and who have applied his work are far more persuasive than letters from independent references who were not previously aware of the petitioner and are merely responding to a solicitation to review the petitioner's curriculum vitae and work and provide an opinion based solely on this review.

The beneficiary obtained his Ph.D. from the petitioning university in 1991 under the supervision of Professor [REDACTED]. The beneficiary then joined the faculty at the University of Cairo. In 1994, the beneficiary returned to the petitioning university to conduct research. Professor [REDACTED] explains that the beneficiary's Ph.D. research focused on the study of "the titer and translocation of the most important virus of small grains, *Barley yellow dwarf virus* [BYDV], in susceptible and tolerate oat plants." The beneficiary "devised and maintained an aeroponic culture system for oat plants that allowed simultaneous study of virus in all parts of the plant" and "developed a very sensitive chemiluminescent detection method for the virus." While Professor [REDACTED] notes that both studies resulted in published articles, he does not explain how this work has impacted the field.

Professor [REDACTED] a research plant pathologist at the U.S. Department of Agriculture, a professor at the petitioning university and one of the beneficiary's coauthors, further discusses the beneficiary's Ph.D. research. Specifically, the beneficiary was "the first to elucidate the effects of BYDV tolerance on virus movement and accumulation in oat plants." Professor [REDACTED] explains that one of the published articles resulting from this work "was notable for showing how to use non-radioactive probes to detect plant pathogens."

Professor [REDACTED] also asserts that the beneficiary is currently working in an area of national interest, pathogens of wheat and turfgrass, a major ornamental "crop." Professor [REDACTED] lists the "take-all fungus, *Gaeumannomyces graminis*" as an example of a pathogen the beneficiary is currently studying, "with the aim of

developing improved detection techniques and, ultimately, better disease management strategies.” The beneficiary’s approach to this issue involves extending his work on chemiluminescent detection as well as looking at other detection methods. The beneficiary was “the first to develop primers for use in polymerase chain reaction assays that could distinguish among a range of different take-all isolates.” While Professor [REDACTED] concludes that the beneficiary has several characteristics that reflect his “potential to make a significant impact” in the field, he does not indicate that the beneficiary has already done so.

Professor [REDACTED] a former professor of the beneficiary’s in whose laboratory the beneficiary currently works, praises the beneficiary’s abilities as a student. Professor Wilkinson further asserts that the beneficiary’s new molecular techniques for identifying plant pathogens *in vivo* and *in vitro*, “enabled plant pathologists in the U.S.A. and other part[s] of the world to diagnose and accurately identify very important plant pathogens.” Professor [REDACTED] an assistant professor at the petitioning university, asserts that the beneficiary’s findings “helped other scientists in the US and worldwide to accurately diagnose many of the important plant pathogens.” Neither Professor [REDACTED] nor Professor [REDACTED] identifies scientists beyond the beneficiary’s own collaborators applying his work.

Professor [REDACTED] continues that the beneficiary developed “variety-specific primers that were used with the polymerase chain reaction (PCR) to distinguish between the varieties of *Gaeumannomyces graminis*.” Professor Wilkinson further asserts that this work has established the beneficiary “as a premiere scientist of this important genus.” More specifically:

Using several molecular techniques, [the beneficiary] has proven that the varieties *tritici* and *avenae* are very similar, while the variety *graminis* is different and can be further divided into several sub-varietal groups. The importance of these results is just becoming clear, as he has recently directed his research toward determining the basis for different host ranges among these varieties. His latest accomplishment is an extension of this research and deals with the identification and cloning of the melanin gene cluster *G. var. tritici*. I anticipate that, in the years to come, [the beneficiary] will determine how and when *Gaeumannomyces* fungi actually cause disease, how their host range is determined and most importantly, how to genetically control the disease.

Finally, Professor [REDACTED] explains that the beneficiary has also studied “the transformation of fungi using novel techniques.” Specifically, the beneficiary “is the first to transform several *Gaeumannomyces* strains with the reporter genes: green fluorescent protein (GFP), and phleomycin resistances.” Professor [REDACTED] explains that these marked strains “will be used in gene disruption experiments and then in pathogenicity and host range studies, which will allow more questions about take-all disease to be addressed.” This work “will advance our knowledge of the role of melanin in a ubiquitous and very destructive pathogen like *G. graminis*.”

Expanding on this discussion of the beneficiary’s current work, Professor [REDACTED] explains that melanins are “dark-colored pigments produced by a range of fungi that strengthen their cell walls and may aid in their penetration of host plant cells.” For example, Professor Domier explains that some albino mutants are non-pathogenic. Professor [REDACTED] asserts that the beneficiary “has already isolated, cloned and sequenced the genes for three of the enzymes in the melanin production pathway of *G. Graminis*.” Professor [REDACTED] concludes that understanding “the role of melanins in disease induction will help plant breeders devise counter-strategies that can be incorporated into plants to make them resistant to this fungus, and possibly others.” Professor Domier

asserts that this work has “attracted funding from several granting agencies.” Professor [REDACTED] an associate professor at the petitioning institution, asserts that a follow up project will be to “produce transgenic plants that are resistant to take-all.”

Regarding the beneficiary’s work on turf grass, Professor [REDACTED] explains that the beneficiary is working on the transformation of turf grass with herbicide tolerant (BAR) and Chitinase genes. Specifically, the beneficiary “worked on reducing the time and costs to produce transgenic turfgrass without using tissue cultures.” Professor Babadoost asserts that the “preliminary data from his project indicate that his research will significantly benefit the turf and cereal industries in the US and other areas of the world.” Professor Babadoost does not, however, assert that the beneficiary has already significantly benefited these industries.

Dr. [REDACTED] formerly a Ph.D. student at the petitioning university, provides similar information to that discussed above [REDACTED], Professor Emeritus at the petitioning university, mostly provides general praise of the beneficiary’s personality and skills with little discussion of specific contributions to the field.

The petitioner provides two letters from researchers in the field beyond the petitioning university. Professor A. [REDACTED] of Genoscope in France provides general praise of the beneficiary and fails to specify any specific contribution to the field or explain how that contribution has already impacted the field.

Dr. [REDACTED] a research plant pathologist at the U.S. Department of Agriculture in Stoneville, Mississippi, reiterates the research projects discussed above and asserts that the beneficiary’s results “will be used to determine the role of melanin in defining the host range and virulence of *Gaeumannomyces*” and that his marked strains “will be used in gene disruption experiments and then in pathogenicity and host range studies.” He does not identify any state or federal government agency or other entity in the agricultural industry already applying the beneficiary’s work to diagnose or identify pathogens.

We acknowledge that the beneficiary’s published work has been cited, a factor which we will consider under the following criterion. None of the citations, however, single out the beneficiary’s work beyond the typical progression in the field. In several articles, the beneficiary is cited as one of several articles for the same proposition. While other researchers in the field have requested reprints of the beneficiary’s articles, the record lacks evidence that these requests are indicative of international recognition, beyond the typical interest in the work of others in one’s area of research.

While the beneficiary’s research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or research, in order to be accepted for graduation, publication or funding, must offer new and useful information to the pool of knowledge. The record does not establish that the beneficiary’s work represented contributions indicative of international recognition.

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

The record contains evidence that the beneficiary has presented his work at conferences and published several articles, three of which have been moderately cited. While wider citation of individual articles would have

carried more weight, we are persuaded that the beneficiary minimally meets this criterion. An alien, however, must meet at least two criteria to establish eligibility. While we acknowledge the connection between this criterion and the original contributions criterion - original contributions in science are typically published in scholarly articles - meeting one of the two criteria is not presumptive evidence for meeting the other criterion. To conclude otherwise would negate the purpose of requiring that an alien meet at least two criteria. For the reasons discussed above, the petitioner has not established that the beneficiary meets another criterion.

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

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.