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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



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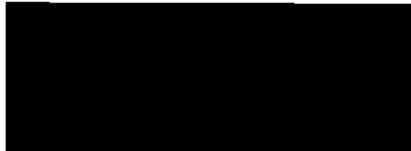
Office: TEXAS SERVICE CENTER

FILE: 

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:



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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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, Texas 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 institution of higher education/university . It seeks to classify the beneficiary as an outstanding professor or 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 an assistant professor. While the decision is contradictory on page 6, the AAO concludes that the director determined that the petitioner had met two of the six criteria. However, the director determined that the petitioner had not established the beneficiary had attained the outstanding level of achievement required for classification as an outstanding professor.

On appeal, counsel, on behalf of the petitioner, submits a brief and additional evidence. Counsel asserts that the beneficiary meets five of the six criteria. Counsel asserts that the director's decision raised questions not presented in Request for Evidence (RFE) and rejected points the director previously did not contest. Counsel contends that the director did not otherwise give proper weight to the comprehensive evidence submitted by the petitioner in support of the beneficiary's petition.

The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See e.g., Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

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.

II. International Recognition

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 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.

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*, 381 F.3d at 145;

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)).

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.

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).

III. Analysis

A. Evidentiary Criteria

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

The petitioner submitted evidence of four faculty award grants, five fellowship awards, one travel grant and a Leverhulme Trust research grant. The director determined that the petitioner had not submitted qualifying evidence that meets the plain language requirements of the regulation at 8 C.F.R. § 204.5(i)(3)(i)(A). Counsel asserts that the director “misinterpreted the regulations and applied their analysis to the wrong field.”

The director stated the following:

It is significant that the *proposed* regulation relating to this classification would have required evidence of a major *international* award. The final rule removed the requirement that the award be “international,” but left the word “major.” The commentary states: “The word “international” has been removed in order to accommodate the *possibility* that an alien might be recognized internationally as outstanding for having received a major award that is not international.” (Emphasis added.) 56 Fed. Reg. 60897-01, 60899 (Nov. 29, 1991.) Thus, the standard for this criterion is very high. The rule recognizes only the “possibility” that a *major* award that is not international would qualify. Significantly, even lesser international awards cannot serve to meet this criterion given the continued use of the word “major” in the final rule.

First, counsel asserts that the director “creates a higher threshold by relying on proposed criteria rather than the plain language meaning of the statute.” Counsel contends that the director “interprets the statute as more exclusive by confusing the significance of “international,” “major,” and “possibility.” Counsel asserts that, in this matter, the criteria are designed to be inclusive by accepting major prizes regardless if national or international. Counsel’s assertion is not persuasive. The director determined, and the AAO concurs, that the petitioner has not established that the awards are major prizes or awards in the academic field.

Awards limited to students or novices in the field cannot serve as qualifying evidence under 8 C.F.R. § 204.5(i)(3)(i)(A), nor is research funding considered a prize or award. The beneficiary’s faculty award grants from the beneficiary’s employing university, student fellowships (which fund

future research rather than recognize past achievements) and travel award to finance attendance at a meeting do not qualify as major prizes or awards for outstanding achievement in the academic field.

Second, counsel asserts that the Leverhulme Trust easily satisfies the criterion. Counsel asserts that the director "should have directly assessed the merits of the award on the following bases: (1) The criteria used to grant the major prizes or awards, and (2) The number of prize recipients or awardees as well as any limitations on competitors (if the award is limited to competitors from a single institution than it may not rise to the level of major)."

The description of this type of evidence in the regulation provides that the focus must be on the beneficiary's receipt of the major prizes or awards, as opposed to his or her employer's receipt of the prizes or awards. Here, the evidence contains a letter from the Leverhulme Trust to the Provost at the University College of London. The letter states that the Trustees have agreed to offer the University College London a research grant for three years for "Understanding Metaphor: Ad Hoc Concepts and Imagined Worlds", directed by Professor ██████████ Department of Linguistics, and ██████████ Wellesley College, U.S.A. The letter goes on to request that the University ensure that the grant is spent according to the enclosed budget. Based on this evidence, although the beneficiary's research clearly benefits from the University's receipt of the grant, the recipient of the prize appears to be the University through its employee ██████████ rather than the beneficiary.

The petitioner did not submit qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)(A).

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

The petitioner did not submit qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)(B).

On appeal, the petitioner does not contest the director's findings for this criterion or offer additional arguments. The AAO, therefore, considers this issue to be abandoned. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005). Accordingly, the petitioner has not established that this criterion has been met.

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 evidence of articles written by other researchers that cite the beneficiary's work in the field. The director concluded that the articles that cite the beneficiary's work, but that are

primarily about the author's own work or a general review of the field, cannot be considered published material about the beneficiary's work. On appeal, counsel asserts that the director "failed to understand that the field of Philosophy is distinctly separate from the hard sciences." Counsel further asserts that the publications that cite the beneficiary's work are top tier journals which have an acceptance rate lower than some of the most well-known scientific journals. Moreover, counsel asserts that the purpose of citing an author in the field of philosophy is not to provide a framework to build upon, but rather to critique or develop a theory.

Notwithstanding, the regulation at 8 C.F.R. § 204.5(i)(3)(i)(C) requires evidence of published material about the beneficiary's work. The AAO reads "published material" to mean the article itself, not a mere footnote or a single sentence within an article. The evidence contains six articles written by authors, each of which reflects a minor citation to the beneficiary's work. The AAO agrees with the director in that the articles which cite the beneficiary's work are primarily about the authors' own work, not the beneficiary's work. As such, they cannot be considered published material about the beneficiary's work. Given this, the record fails to contain evidence of published material written by others about the beneficiary's work.

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

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 petitioner did submit qualifying evidence that meets the plain language requirements set forth at 8 C.F.R. § 204.5(i)(3)(i)(D). The record contains numerous emails thanking the beneficiary for reviewing papers or manuscripts for various journals. Accordingly, the petitioner has met this criterion.

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

The director determined that the applicant failed to demonstrate original scientific or scholarly research contributions to the academic field.

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." Had the regulation contemplated merely the submission of original research, it would have said so, and not have included the extra word "contributions." See *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F.3d 28, 31 (3rd Cir. 1995) quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003). Moreover, the plain language of the regulation requires that the contributions be "to the academic field" rather than an individual laboratory or institution.

The petitioner submitted evidence that the beneficiary has authored scholarly articles. The regulations, however, 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. The petitioner did provide evidence that independent researchers have cited the beneficiary's work. The number of citations per article, however, is minimal. The beneficiary's citation record, by itself, is not indicative of contributions to the academic field as a whole.

The petitioner submitted four letters of support from the beneficiary's peers and colleagues in order to establish original contributions. The director determined that "while it appears that the beneficiary has made noteworthy contributions to the field, the record fails to establish that the beneficiary has made contributions of major significance in the field, such that the results of the beneficiary's work have been reproduced, confirmed by other experts, and applied to their work." On appeal, counsel asserts that the director rejected expert opinions, which specifically articulated how the beneficiary has contributed to the field and how her work has substantially impacted the field. Upon review of the expert letters, the AAO agrees with the director. While the expert letters broadly state the beneficiary's contributions to the field, they fail to provide specific examples of how the beneficiary's work has impacted the academic field.

[REDACTED], describes the beneficiary's work on metaphorical language as "outstanding because it both provides much needed critical assessment of competing philosophical analyses . . . and develops an analytical framework, which brings philosophical insight and empirical evidence from linguistics and psychology together into a single unified view." [REDACTED] explains that the beneficiary's "recent investigation of how her theory of metaphor understanding applies to people on the autism spectrum . . . is a rare instance of philosophical work impacting on clinical and therapeutic issues." While [REDACTED] states the beneficiary's work has an impact on clinical and therapeutic issues, she fails to provide specific examples of how the beneficiary's work is being applied in the academic field.

[REDACTED] states that the beneficiary's work "sheds light on metaphor, linguistic competence, and the human mind. It opens doors for devising better educational interventions for children with autism and others with similar language deficits and learning disabilities." [REDACTED] goes on to state that the beneficiary's work "is enormously important", but she fails to provide specific examples of how the beneficiary's work is being applied in the academic field.

[REDACTED] states that the beneficiary's "contributions to the field of philosophy of language have led to significant improvements in our understanding of natural language semantics and pragmatics." She explains that "[i]t should be clear therefore that a deeper understanding of metaphor could contribute to this larger project of explaining natural language understanding/comprehension (both spoken and written comprehension). This has been [REDACTED] contribution." She further states that the beneficiary

“has made significant contributions to natural language pragmatics and semantics and in particular to our understanding of the ways in which readers and hearers are able to comprehend a speaker’s use of metaphorical and other nonliteral language.” While [REDACTED] describes the beneficiary’s work, she fails to provide specific examples of how the beneficiary’s work is currently being applied in the academic field.

[REDACTED], states that the beneficiary has “produced several very important and influential papers.” He further states that the beneficiary’s latest work “is being published in the most prestigious journals in our field.” [REDACTED] fails to state the impact of the beneficiary’s work in the academic field.

The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

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 the AAO has 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)).

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)(E).

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

The petitioner submitted evidence of articles authored by the beneficiary. The director determine, and the AAO agrees, that the petitioner has submitted evidence that qualifies under 8 C.F.R. § 204.5(i)(3)(i)(F).

In light of the above, the petitioner has submitted evidence that meets at least two of the criteria that must be satisfied to establish the minimum eligibility requirements for this classification. Specifically the petitioner submitted evidence to meet the criteria set forth at 8 C.F.R. §§ 204.5(i)(3)(i)(D) and (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)).

Demonstrating that the beneficiary's work was "original" in that it did not merely duplicate prior research is not useful in setting the beneficiary apart in the academic community through eminence and distinction based on international recognition. 56 Fed. Reg. at 30705. Research work that is unoriginal would be unlikely to secure the beneficiary a master's degree, let alone classification as an outstanding researcher. 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."

On appeal, counsel asserts that the director erred by failing to carefully examine the application form and all supporting documents. As stated above, the petitioner submitted qualifying evidence to meet the criteria set forth at 8 C.F.R. §§ 204.5(i)(3)(i)(D) and (F). Given this, the AAO will consider the evidence submitted in connection with those criteria.

The fact that the beneficiary served as a reviewer of journal papers, such as the *Journal of Linguistics*, *Journal of Pragmatics* and *Mind & Language*, etc., is a relevant consideration as to whether the evidence is indicative of the beneficiary's recognition beyond her own circle of collaborators. See *Kazarian*, 2010 WL 725317 at*5. We find that this service as a "judge" reflects recognition of the beneficiary beyond her own circle of collaborators.

In the director's decision, the director determined that no evidence was provided on the selection of the judging board or how the beneficiary was selected to participate in the review of the submitted articles. Without evidence that sets the beneficiary apart from others in her field, the director could not conclude that the beneficiary's judging experience is indicative of or consistent with international recognition. On appeal, counsel takes issue with the beneficiary's work as a peer reviewer receiving scrutiny in the Denial Notice, but not previously in the director's RFE. Counsel submits evidence to address this issue. Counsel submits evidence regarding the high caliber of the journals and evidence of their low

acceptance rate. The record fails to contain evidence of the selection of the judging board for the relevant journals the beneficiary has served as a reviewer. Counsel relies on the assertion that "reviewing manuscripts for top-tier journals in both the hard sciences and humanities is reserved for those who are truly at an elite level or rather a small number. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The record fails to contain evidence of how the beneficiary compared to other competitors and whether international outstanding recognition was a requirement in the selection process. Without evidence that sets the beneficiary apart from others in her field, such as evidence that she has reviewed manuscripts for a journal that credits a small, elite group of referees, received independent requests from a substantial number of journals, or served in an editorial position for a distinguished journal, the petitioner cannot establish that the beneficiary's judging experience is indicative of or consistent with international recognition.

Regarding the beneficiary's published articles, the director determined that record reflects that the beneficiary has authored articles published in different journals such as the *Mind & Language* and the *Journal of Pragmatics*; however, the director was not persuaded that her work was indicative of or consistent with international outstanding recognition. On appeal, counsel asserts that the beneficiary's field is not analogous to the scientific field and the low acceptance rate of those philosophy journals.

The Department of Labor's Occupational Outlook Handbook, 2008-2009 (accessed at www.bls.gov/oco on January 28, 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.* 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. Therefore, regardless of the academic field, the AAO cannot conclude that publication in scholarly journals in connection with a doctoral degree or university employer is indicative of or consistent with international recognition.

In addition, the beneficiary's citation history is a relevant consideration as to whether her published articles are indicative of recognition beyond her own circle of collaborators. See *Kazarian*, 596 F. 3d at 1122. The record, which reflects six minor citations, fails to contain evidence that the beneficiary's articles have been widely cited or other comparable evidence that demonstrates that the beneficiary's publication record is consistent with international recognition.

In light of the above, the final merits determination reveals that the qualifying evidence of the beneficiary's research, her service as a judge of the work of others in the same or an allied academic

field and her publication history, does not set the beneficiary apart in the academic community through eminence and distinction based on international recognition, the purpose of the regulatory criteria. 56 Fed. Reg. at 30705.

C. Conclusion

The petitioner has shown that the beneficiary is a talented professor, who has won the respect of her collaborators, employers, and colleagues, while securing some degree of exposure for her 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.

For the above stated reasons, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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.