



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **AUG 28 2015**

FILE #: [REDACTED]

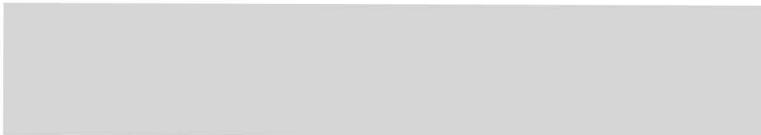
PETITION RECEIPT #: [REDACTED]

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:



INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, (Director) denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

The Petitioner, a biotechnology company, 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 molecular biology scientist. The Director determined that the Beneficiary had not satisfied the initial evidence requirements set forth at 8 C.F.R. § 204.5(i)(3)(i), which requires evidence that meets at least two of the six regulatory criteria.

On appeal, the Petitioner submits a brief. The Petitioner asserts that the Beneficiary meets three out of the six criteria at 8 C.F.R. § 204.5(i)(3)(i) and that the Beneficiary qualifies for the classification sought.

For the reasons discussed below, we uphold the Director's determination that the Petitioner has not established the Beneficiary's eligibility for the classification sought. Specifically, when we simply "count" the evidence submitted, the Petitioner has submitted qualifying evidence for the Beneficiary under two of the regulatory criteria as required, research contributions to the academic field and scholarly articles pursuant to 8 C.F.R. § 204.5(i)(3)(i)(E) and (F). As explained in our final merits determination, however, the evidence that technically qualifies under these criteria reflects accomplishments in the field that do not, as of the date of filing, set the Beneficiary apart in the academic community through eminence and distinction based on international recognition, the purpose of the regulatory criteria.¹ *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)).

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

¹ The legal authority for this separate analysis of the burden of production and the burden of persuasion will be discussed below.

(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.

The Immigrant Petition for Alien Worker (Form I-140) was filed on September 17, 2014. The Beneficiary earned his Master of Science degree in Biological Sciences from Purdue University in December 2008. The Petitioner seeks to classify the Beneficiary as an outstanding researcher in the field of biotechnology. Therefore, the Petitioner must establish that the Beneficiary had at least three years of research experience in the field as of the petition's filing date, and that the Beneficiary's work has been recognized internationally within the academic field 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.

The submission of evidence relating to at least two criteria does not, in and of itself, establish eligibility for this classification. *See Matter of Chawathe*, 25 I&N Dec. at 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that U.S. Citizenship and Immigration Services (USCIS) examines "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true."); *see also Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination).² *See generally Dir., Office of Workers' Comp. Programs, Dep't of Labor v. Greenwich Collieries*, 512 U.S. 267, 272-80 (1994) (explaining that the term "burden of proof" includes a burden of persuasion).

II. ANALYSIS

A. Evidentiary Criteria³

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 Director determined that the Petitioner had not established the Beneficiary's eligibility for this criterion. On appeal, the Petitioner asserts that others have written published works in professional publications about the Beneficiary's work in the biotechnology field.

² The immigrant visa 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. While involving a different classification than the one at issue in this matter, the similarity of the two classifications makes the court's two-step approach in *Kazarian* relevant guidance for the classification sought in this matter.

³ On appeal, the petitioner does not assert, and the record does not show, that the Beneficiary meets any of the regulatory categories of evidence not discussed in this decision.

The Petitioner previously submitted copies of various research articles, only one of which specifically cites to the Beneficiary's published work.⁴ The submitted articles are about the authors' own research and not the Beneficiary's work. The Petitioner has not established that any of the research articles submitted for this criterion are about the Beneficiary's work.

The Beneficiary worked for [REDACTED] from September 2008 to April 2012. The Petitioner submitted various [REDACTED] advertisements for the [REDACTED] and [REDACTED] [REDACTED] products that the beneficiary co-developed that are posted at [REDACTED] and [REDACTED]. However, the author of the material was not identified as required by this regulatory criterion. Furthermore, a promotional advertisement is not material written by others about the Beneficiary's work in the academic field. Lastly, the Petitioner has not shown that the aforementioned websites are professional publications.

The Petitioner also provided an article in the [REDACTED] (New York) entitled [REDACTED] but the article is about [REDACTED] and not the Beneficiary's work. In addition, the [REDACTED] is a local newspaper and not a professional publication as required by the plain language of this regulatory criterion.

Documentation submitted included a press release "compiled by [REDACTED] entitled [REDACTED] – The latest products and services" that mentions [REDACTED] slides among nine other advertised products. The author of the material was not identified as required by this regulatory criterion. In addition, the article includes a disclaimer stating that "[i]t has not been written or reviewed" by the editorial team and that they take "no responsibility for the accuracy or otherwise of the information provided." The petitioner has not shown that the [REDACTED] press release, which does not reflect independent journalistic coverage, constitutes published material written by others in a professional publication.

In addition, the Petitioner provided a September 20, 2011 article in [REDACTED] entitled [REDACTED] [U.S. National Institutes of Health] Grant to Develop [REDACTED]. The article does not mention the beneficiary and the Petitioner did not submit documentary evidence showing that the Beneficiary was individually named in the grant. Accordingly, the Petitioner has not shown that the article is about the Beneficiary's work. Furthermore, the Petitioner has not submitted evidence showing that [REDACTED] is a professional publication.

The Petitioner also submitted an August 2014 article posted at [REDACTED] entitled [REDACTED] but the author of the material was not identified. In addition, the submitted material reflects that [REDACTED] is a company that provides recruitment services for jobs in the healthcare industry. There is no evidence demonstrating that [REDACTED] website is a professional publication.

⁴ The article in [REDACTED] citing to the Beneficiary's published work similarly referenced more than two hundred other research articles and is not about the Beneficiary's work.

The Petitioner also provided an August 2014 press release distributed by [REDACTED]: entitled [REDACTED] but the author of the material was not identified. Furthermore, a press release is not indicative of independent journalistic coverage. The Petitioner has not established that distribution of a press release through [REDACTED] a company that disseminates full-text press releases to news media, constitutes published material in a professional publication written by others about the Beneficiary's work in the academic field.

In addition, the Petitioner submitted August 2014 articles entitled [REDACTED] (posted at [REDACTED] and [REDACTED] (posted at [REDACTED] but the author of the material was not identified as required by this criterion. In addition, there is no documentary evidence showing that the aforementioned websites are professional publications.

An article posted at [REDACTED] entitled [REDACTED] does not reflect the date and author of the material. Furthermore, there is no evidence demonstrating that the aforementioned website is a professional publication.

In response to the director's request for evidence, the Petitioner submitted additional articles dated October 2014 and November 2014. These articles were published subsequent to the Petitioner filing the Form I-140 on September 17, 2014. Eligibility, however, must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Accordingly, we cannot consider any articles published after September 17, 2014, as evidence to establish the Beneficiary's eligibility at the time of filing.

In light of the above, the Petitioner has not established that the Beneficiary meets this regulatory criterion.

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

The Director determined that the Petitioner had not established the Beneficiary's eligibility for this regulatory criterion. On appeal, the Petitioner asserts that the Beneficiary has made significant original scientific contributions to the field of biotechnology.

The Petitioner submitted various reference letters from experts in the field, detailing the Beneficiary's specific contributions and explaining how those contributions are important to the academic field.

[REDACTED] Professor of Biomedical Engineering, [REDACTED] and co-founder of [REDACTED] supervised the Beneficiary during his work on a research team tasked with developing and applying ultrathin silicon membrane technologies. [REDACTED] states: "My lab focuses on the development of pioneering methods to relate the physical properties of nanoparticles

to their capacity for protein binding and their fate within cells. [The Beneficiary's] expertise in the nature of the material led him to design separation devices within these membranes." further states: "The models developed by [the Beneficiary] help scientists to control pore sizes during the manufacturing of nanomembranes."

Co-Founder and President of and Assistant Professor in the Department of Biomedical Engineering at the also supervised the Beneficiary during his tenure with states that the Beneficiary's "work on cell culture device helped overcome the shortcomings of membranes used in commercial devices" enabling "scientists to generate robust experiments related to co-cultures." In addition, asserts that a biotechnology company, "signed a worldwide distribution agreement to carry the product."

With regard to the Beneficiary's nanomembrane research, President of a biotechnology company in Germany, states:

[The Beneficiary's] original research findings established nanomembranes as a superior cell culture substrate and were responsible for our research group's adoption of the nanomembrane platform. His outstanding bioengineering research skills led him to develop an original commercial device, named which simplified the utilization of these nanomembranes. . . . His device allows researchers to model complex experiments, which would not have been possible conventionally.

Furthermore, President of a subsidiary of the states that the Beneficiary played a key role "in developing models to predict behavior of pore sizes during fabrication" of nanomembranes and thus optimize their manufacturability.

Head of Research and Development for the Molecular Standards and Controls Division for states: "[The Beneficiary's] research has made great strides in overcoming the barrier of insufficient and expensive quality control. He co-developed the patent pending technology (Reagents and Methods for Sequencing . . .) which consists of engineered synthetic DNA to mimic human DNA."

In addition, a staff scientist and the Beneficiary's manager at states:

As co-inventor of the technology known as [the Beneficiary] designed a synthetic material to mimic human samples containing more than 500 mutations in a single test tube. . . . This enables labs all over the world to quickly and cost-effectively move towards offering NGS as standard practice. The is IVD (In-Vitro Diagnostics) approved by the FDA [U.S. Food and Drug Administration] and is commercially available.

Regarding the Beneficiary's [redacted] technology, [redacted] Director of the United Kingdom [redacted]) for Molecular Genetics, states:

By developing a single control with more than 500 mutations, [the Beneficiary's] [redacted] technology is able to replace potentially hundreds of independent samples, and also helps target mutations that would have been almost impossible to source. . . . We at UK [redacted] have just completed a comprehensive study utilizing [redacted] aimed at demonstrating the feasibility of multiplatform, multi-laboratory assessment with a single reference material.

Furthermore, [redacted] Director of Purchasing Programs, [redacted] states:

As more genes are introduced to test our next generation sequencing technologies, conventional methods of pooling known positive cell lines will be a limiting factor for CAP to source survey materials. [The Beneficiary's] groundbreaking [redacted] technology is designed to overcome these limitations and effectively allow survey programs, such as the MTP [Multigene Tumor Panel] surveys, to take place unhindered.

Lastly, [redacted] Professor of Biology, [redacted] University, asserts that the Beneficiary's "novel ideas with respect to the development of controls for next generation DNA testing are original and significant and have contributed to the field."

The aforementioned references' assertions are supported by intellectual property documentation and online articles reflecting commercialization of the Beneficiary's research teams' devices. A review of the record of proceeding reflects that the Petitioner submitted sufficient documentary evidence establishing the Beneficiary's scientific contributions to the academic field, and the Director's determination on this issue will be withdrawn. Accordingly, the Petitioner has established that the Beneficiary meets this regulatory criterion.

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

The Director determined that the Petitioner had established the Beneficiary's eligibility for this regulatory criterion. The Petitioner submitted documentation of the Beneficiary's authorship of an article in [redacted] (2014) and an article in [redacted] (2008).⁵ Accordingly, the record supports the Director's finding that the Beneficiary meets this regulatory criterion.

⁵ The Petitioner also submitted documentation relating to the Beneficiary's conference presentations and abstracts, but the plain language of the regulatory criterion at 8 C.F.R. § 204.5(i)(3)(i)(F) requires authorship of scholarly articles "in scholarly journals with international circulation." A scientific conference is not a scholarly journal.

Summary

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

B. Final Merits Determination

The next step is a final merits determination that considers whether the evidence is consistent with the statutory standard in this matter, being recognized internationally as outstanding in the academic area. Section 203(b)(1)(B)(i) of the Act. In addition, the controlling purpose of the regulation at 8 C.F.R. § 204.5(i)(3)(i) is to establish that the researcher is recognized internationally as outstanding in the academic field, and any evidence that meets the preceding categories of evidence must therefore be commensurate with 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. at 30705.

With reference to the category of evidence at 8 C.F.R. § 204.5(i)(3)(i)(E), the documentation submitted regarding the Beneficiary's original contributions to the biotechnology field is not sufficient to demonstrate that he is internationally recognized as outstanding in his academic area. Regarding the Beneficiary's inventions and research contributions, the Petitioner must demonstrate that the level of success of the innovations and findings are reflective of the Beneficiary being recognized internationally as outstanding in the academic field. Although the Petitioner submitted various online articles reflecting commercialization of the Beneficiary's research teams' devices, none of the articles previously discussed under the regulatory criterion at 8 C.F.R. § 204.5(i)(3)(i)(C) specifically mention the Beneficiary. Several of those same articles, however, do specifically mention [REDACTED] and his work. We cannot conclude that articles which do not even mention the Beneficiary are indicative of his international recognition in the academic field.

Research work that is unoriginal would be unlikely to secure the Beneficiary a master's degree, let alone classification as an outstanding researcher. While the Petitioner has demonstrated the Beneficiary's research contributions to the academic field, the submitted evidence does not show that the contributions elevate the Beneficiary to the level of a researcher who is internationally recognized as outstanding in the field. Although the letters of support commented favorably on the Beneficiary's research findings and product development, all but one were limited to his employers, educators, professional contacts, and those who have directly collaborated with the Beneficiary or his employers. Letters from the Beneficiary's employers and collaborators do not show the international recognition of his work in the academic field. The one exception is the letter from [REDACTED] who stated that she did "not know [the Beneficiary]" and that her familiarity with him was based solely on her review of "various materials provided to [her] by representatives of [the Beneficiary]." As [REDACTED] was not familiar with the Beneficiary until after reviewing his credentials for this petition, her observations alone are not sufficient to demonstrate that the Beneficiary's contributions are commensurate with being internationally recognized as outstanding in the academic field.

Regarding the remaining letters of support that were not from the Beneficiary's employers, the letter from [REDACTED] states that she "mentored [the Beneficiary] throughout his graduate studies at [REDACTED] University." In addition, [REDACTED] mentions the "collaboration between [REDACTED] and [REDACTED] aimed at developing new live cell imaging tools." Furthermore, [REDACTED] states that the Beneficiary "was directly responsible in developing, characterizing and quantifying the materials supplied to CAP" and that he worked with CAP on its [REDACTED] pilot survey.

Additionally, [REDACTED] who co-founded the biotechnology accelerator, [REDACTED] based at [REDACTED] University in New York, states that he met the Beneficiary "a handful of times." Further, the letter from [REDACTED] states that he coauthored the article in [REDACTED] with the Beneficiary. Lastly, [REDACTED] states that she worked with the Petitioner's [REDACTED] division and [REDACTED] letter notes that [REDACTED] "has actively collaborated" with the Beneficiary "to develop an abstract for submission to [the] [REDACTED]." While the aforementioned references provided important details about the Beneficiary's role in various projects, they alone do not establish the impact of Beneficiary's work beyond his circle of professional acquaintances such that the level of the Beneficiary's contributions is consistent with him being recognized internationally as outstanding in the academic field.

Uncorroborated assertions that the beneficiary is internationally recognized as outstanding are insufficient. See *Visinscaia v. Beers*, 4 F.Supp.3d 126, 134-35 (D.D.C. 2013) (upholding USCIS' decision to give limited weight to uncorroborated assertions from practitioners in the field); *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (holding that an agency "may, in its discretion, use as advisory opinions statements . . . submitted in evidence as expert testimony," but is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought and "is not required to accept or may give less weight" to evidence that is "in any way questionable"). The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the beneficiary's eligibility. *Id.* 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"). Although the Petitioner submitted several letters of support for the Beneficiary indicating that he has contributed to [REDACTED] and [REDACTED] products, the commercialization and international exposure of those products alone does not set the Beneficiary apart in the academic community through eminence and distinction based on international recognition.

In regard to the patent applications filed by the Beneficiary's employers for two inventions he coauthored entitled [REDACTED] and [REDACTED] there is no documentary evidence showing that a U.S. or an international patent was granted for the inventions. Regardless, while issuance of a patent recognizes the originality of an idea, it does not automatically demonstrate that the Beneficiary is internationally recognized as outstanding for co-developing the inventions. A patent is not necessarily evidence of a track record of success with some degree of influence over the field as a whole. See *In re New York State Dep't of Transportation*, 22 I&N Dec. 215, Dec. 221, n. 7 (Act. Assoc. Comm'r 1998). Rather, the significance of the innovation must be determined on a case-by-case basis. *Id.*

Furthermore, although the Petitioner submitted evidence of the Beneficiary's co-authorship of two journal articles that meet the plain language requirements of the criterion at 8 C.F.R. § 204.5(i)(3)(i)(F), the U.S. Department of Labor's *Occupational Outlook Handbook (OOH)*, 2014-15 Edition provides information about the nature of employment as a postsecondary teacher (professor) and the requirements for such a position. See <http://www.bls.gov/ooh/education-training-and-library/postsecondary-teachers.htm#tab-3>, accessed on August 14, 2015, copy incorporated into the record of proceeding. The handbook states that faculty members are pressured to perform research and to publish their findings and that the professor's research record is a consideration for tenure. In addition, doctoral programs require graduate students to prepare "a doctoral dissertation, which is a paper presenting original research in the student's field of study." See <http://www.bls.gov/ooh/education-training-and-library/postsecondary-teachers.htm#tab-4>, accessed on August 14, 2015, copy incorporated into the record of proceeding. This information reveals that original published research, whether arising from research at a university (such as ██████ University) or a private employer such as the Petitioner, does not set the researcher apart from faculty in that researcher's field. When viewed in context with the publication record of ██████ for example, who has "published more than fifty papers in scholarly journals and conference proceedings," the Petitioner has not established that the Beneficiary's publication record is commensurate with being internationally recognized as outstanding.

Moreover, the beneficiary's citation history is a relevant consideration as to whether the evidence is indicative of his recognition beyond his own circle of collaborators. See *Kazarian*, 596 F. 3d at 1122. Numerous favorable independent citations for an article authored by the beneficiary may indicate that other researchers are familiar with his work and have been influenced by it. A less extensive citation record, on the other hand, is generally not probative of the beneficiary's impact in the field. The Petitioner submitted documentary evidence of one citation to the Beneficiary's body of published work. In comparison, ██████ states that his "work has been cited more than 900 times in leading publications by [his] peers." As the Petitioner has not established that the Beneficiary's research findings have been extensively cited internationally and the record contains no other evidence demonstrating the impact of the Beneficiary's scholarly articles in the academic field beyond his references, the Petitioner has not demonstrated that the Beneficiary's publication record of two journal articles is consistent with being internationally recognized as outstanding in the biotechnology field.

Regarding the Beneficiary's participation in research meetings and conference presentations, many professional fields regularly hold meetings and conferences to present new work, discuss new findings, and to network with other professionals. Professional associations, educational institutions, employers, and government agencies promote and sponsor these meetings and conferences. Participation in such events, however, does not necessarily establish that the Beneficiary is internationally recognized as outstanding in the academic field. There is no documentary evidence showing that once disseminated at various conferences and meetings, the Beneficiary's presented work has been extensively cited by other research scientists or has otherwise risen to the level of being recognized internationally as outstanding in the biotechnology field.

In light of the above, our final merits determination reveals that the Beneficiary's qualifying evidence, co-developing original technologies that have contributed to the academic field and

publishing two journal articles that have not garnered extensive international citations or other substantial impact in the academic field, 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. The truth is to be determined not by the quantity of evidence alone but by its quality. See *Matter of Chawathe*, 25 I&N Dec. at 376.

III. CONCLUSION

The Petitioner has shown that the Beneficiary is a talented molecular biology researcher, who has won the respect of his colleagues and supervisors, while securing a degree of international exposure for his work. The record, however, stops short of elevating the Beneficiary to the level of an individual 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.

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. We conduct appellate review on a *de novo* basis. See *Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002, n. 9 (2d Cir. 1989).

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.