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

U.S. Citizenship
and Immigration
Services

FILE: Office: TEXAS SERVICE CENTER   Date: MAR 3 0 2006
SRC 04 211 50779

IN RE: Petitioner:
              Beneficiary:

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

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

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

Maui Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

www.uscis.gov

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as an assistant professor at the University of North Texas (UNT) School of Library and Information Sciences. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree but that the petitioner had not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

Section 203(b) of the Act states in pertinent part that:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --
>
> > (A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
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> > (B) Waiver of Job Offer.
> >
> > > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to the regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service [now Citizenship and Immigration Services] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, 22 I&N Dec. 215 (Comm. 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien's past record justifies projections of future benefit to the national interest. The petitioner's subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

The petitioner discusses her work in the field of information science:

> If I were not able to continue my research on intelligent information retrieval, the research focusing on providing fast, high quality information access tools to improve the quality of information retrieval would be delayed. . . .

> I have been engaged in the field of information processing, especially intelligent information retrieval system design and analysis for more than 10 years. . . .

> Currently, I am working on methodologies issue[s] for intelligent cross language information retrieval. The research can significantly improve the capability of information processing to foreign language resources.

The petitioner asserts that her training and multidisciplinary expertise set her apart from others in the field.

Several witness letters accompany the initial filing. Most of the witnesses have taught or worked with the petitioner at UNT, Syracuse University, or Wuhan University. An exception is Professor ███████████ of Kent State University, who states:

> I am . . . an international expert on knowledge organization and representation. . . . I am the Chair of International Federation of Library Association and Institutions (IFLA) Section on

Classification and Indexing. I am the chair of the Technical Standards Committee of the Special Libraries Association (SLA). . . .

I met with [the petitioner] in 1999 when we both attended the ██████ annual conference held in Washington, D.C. . . . We have kept in touch since then. We often discuss online the research projects that she was working on at the Center for Natural Language Processing through emails. Those projects were very challenging and important research with the potential to improve US economy and security. Specifically, the Standard Connection project she worked on was a digital library project funded by the National Science Foundation. It aimed at improving scientific information access for K-12 teachers and students. The NASA Question Answering project was crucial to the collaboration of researchers and engineering students in space shuttle research. [The petitioner] has been the leading researcher for these projects. . . .

Another important research area that [the petitioner] has been working on since she was admitted to the Ph.D. programs is English-Chinese cross language information retrieval. The research enables native speakers of English to search and locate valuable information in documents written in foreign languages. [The petitioner's] dissertation focused on exploring a lexical knowledge base approach to this challenging research area. . . . [The petitioner's] idea of applying natural language processing techniques to cross language information retrieval is a phenomenal work and brings a brand new strategy to this research area. Her unique and creative approach [made] her the winner of the prestigious ASIS&T-ISI [American Society for Information Science and Technology – Institute for Scientific Information] doctoral dissertation proposal award in 2003, which is an international award given to one outstanding doctoral student every year.

Professor ██████ Dean of UNT's School of Library and Information Sciences, states:

There is no doubt that she has demonstrated to us that she not only has contributed to the field tremendously, but [is] also preeminent over others in the field. I certainly believe that only a few would match to the level she is capable of.

Specifically, [the petitioner's] research in cross-language information retrieval is critical on several fronts. First, Chinese-English information retrieval combines both the semantic-based retrieval algorithms with the emerging field of image retrieval. Second, with the rapid growth of the People's Republic of China's research in information technology, it is crucial that researchers in the United States have means of reliably accessing this literature. . . .

[The petitioner's] another research area [sic] is automatic question answering which applies natural language processing techniques to advance the research on Information Retrieval. The research aims at finding answers from documents for users' queries, which is very challenging and significant for handling information-explosion. [The petitioner's] research in this area has received nation acclaim [sic].

Professor _____ director of the Center for Natural Language Processing at Syracuse University's School of Information Studies, states that the petitioner "played a crucial role" in several research projects such as "an English-Chinese cross language information retrieval system that enables native speakers of English to retrieve patent documents written in Chinese," and an "important intelligent information retrieval system . . . for defense and intelligent [sic] communities." This latter system "has the capability to mine important relationships from unstructured texts and present a subset of the documents that are relevant to a specific topic."

The director issued a request for evidence (RFE), stating that the petitioner's initial submission "does not establish that self-petitioner's accomplishments are substantially greater than other researchers working in his or her field of expertise. The self-petitioner must demonstrate how his or her documented achievements are more significant/noteworthy by comparison to others in the field."

In response to the RFE, counsel states that the petitioner "has received training of top quality from top ranked schools in China and in the U.S." More important than where the petitioner received her training is what the petitioner has done with that training. Eligibility for the waiver rests with the individual alien, rather than the reputation of a particular university she attended or a particular employer for which she worked.

Several new letters accompany the petitioner's response to the RFE. Most of the letters are from prior witnesses who have worked closely with the petitioner. Dr. ████████████ a research associate professor at Dartmouth College, apparently has not worked with the petitioner but met her when he gave a talk at UNT. ████████████ states:

> The Lexical Knowledge Base (LKB) approach proposed in [the petitioner's] dissertation has the potential to provide a practical solution to real-world Cross Language Information retrieval systems design and development. [Her] ASIST/ISI Dissertation Proposal Award demonstrates that [the petitioner's] research capabilities and achievements are substantially greater than others working in the same field at her level. . . .
>
> There is no doubt that [the petitioner] is one of [the] leading researchers in her endeavor and plays a pivotal role in her research.

Another independent witness is Dr. ████████████ an associate professor and director of the School of Library and Information Science at the University of Iowa. Dr. ████████ states that the petitioner "has been a major contributor to several important research projects," and that her "accomplishments in Cross Language Information Retrieval and Automatic Question Answering are noteworthy and substantial compared to others at her level, indicating an excellent degree of knowledge and expertise on her part."

The director denied the petition on July 5, 2005. The director's denial notice consists almost entirely of general statements about regulations and case law, with no specific discussion of the specific merits or deficits of this petitioner's claim of eligibility. The director's decision contains no information about the petitioner's claims

except for the statement that the petitioner is an assistant professor. The wording of the decision offers no obvious indication that the author of the decision has examined the record in any detail.

On appeal, the petitioner submits additional independent letters of support, further demonstrating that the petitioner has earned a reputation beyond the universities where she has studied and worked. The petitioner also submits documentation showing that her published material has amassed what is, for her field, a very respectable citation history. This is further independent corroboration of the scope of the petitioner's impact. Because the director's RFE had not mentioned citation records as a persuasive form of evidence, the petitioner's failure to submit such evidence in response to the RFE is understandable and the evidence is acceptable on appeal. The RFE, like the subsequent denial, was quite vague in terms of how the record was deficient and what the petitioner could submit by way of supplementary evidence.

It does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given field of research, rather than on the merits of the individual alien. That being said, the evidence in the record establishes that the information science community recognizes the significance of this petitioner's research rather than simply the general area of research. The benefit of retaining this alien's services outweighs the national interest that is inherent in the labor certification process. Therefore, on the basis of the evidence submitted, the petitioner has established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

ORDER: The appeal is sustained and the petition is approved.