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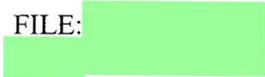
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

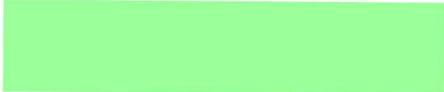


U.S. Citizenship
and Immigration
Services



DATE: **APR 18 2014** OFFICE: NEBRASKA SERVICE CENTER

FILE: 

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in cursive script, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner seeks classification under 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 a researcher in molecular plant science. The petitioner is currently an associate in research at [REDACTED] Washington. The job offer letter from her employer describes her position as “part-time” and “temporary.” 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 the classification sought, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a personal statement and a witness letter.

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

(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.

(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 concluded that “the petitioner holds the requisite advanced degree or exceptional ability,” and denied the petition solely on the finding that the petitioner had not 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 regulations implementing the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states:

The Service [now U.S. Citizenship and Immigration Services (USCIS)] 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.

In re New York State Dep’t of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm’r 1998) (*NYSDOT*), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* 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. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien’s past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner’s assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The term “prospective” is included 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. *Id.*

The USCIS regulation at 8 C.F.R. § 204.5(k)(2) defines “exceptional ability” as “a degree of expertise significantly above that ordinarily encountered” in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on May 11, 2012. The petitioner stated:

Over the past four years I have conducted research in plant molecular biology to improve biomass and crop yield production. . . .

My current work status is Associate in Research within the laboratory of Dr.[] at [] As an AR, my research endeavors within plant biotechnology is the enhancement of agricultural crop and biomass production. Specifically, I am transferring past genetic research advancements in *Arabidopsis thaliana* by [] to *Camelina sativa*. . . . My preliminary results show that larger seeds of genetically modified *Camelina* can be planted deeper in dry soil than non-genetically modified *Camelina*. In addition, the larger seeds have increased energy reserves for reaching moisture deep in the soil and post-planting crop establishment success. These findings are of immense importance particularly for insuring survivability and crop yield in soils with low moisture content and reduced plant available water. . . .

I have conducted research on screening mutant populations in *Arabidopsis* . . . utilizing [an] approach . . . [that] can specifically target groups of genes that may be functionally redundant and thus not readily identifiable in traditional loss-of-function mutant screens. Although this work has not been published yet, I am confident that I will be well recognized for this contribution. The quality of my work is among the best in the field.

The petitioner established the intrinsic merit and national benefit arising from research on *Camelina*, which “has been proposed as a biofuel feedstock for developing biodiesel and jet fuel for the US military and aviation industry.” The petitioner also stated: “*Arabidopsis* is . . . a plant model for key physiological process research,” and claimed to be “one of a few who has the comparative knowledge, technical skill and extensive experience” to perform brassinosteroid inactivation research with that plant model. The petitioner stated: “I am confident that my capabilities in this field are unique, when compared with my peers, and that my presence will positively and significantly affect the future of plant science biotechnology research.”

The petitioner submitted no published documentation to support her claims regarding the importance of her work. Instead, she stated: “As evidence of the impact of my work within this research community, leading scientists at prestigious research institutions across the United States and abroad have submitted letters of support testifying that I am among the elite research scientists in plant molecular biology.”

All of the witnesses are, or were, affiliated with universities in the United States where the petitioner has worked. Dr. [] associate professor at the [] stated that the petitioner received “extensive and valuable scientific training” in his laboratory, working “on a boron nutrition protein project.” Dr. [] did not elaborate on the nature of the petitioner’s achievements on that project, except to identify laboratory techniques that the petitioner learned.

The petitioner then worked at the [] Idaho, for approximately a year. Dr. [] associate professor at [] described the petitioner’s work at [] in general terms but did not provide any details about her work at [] Dr. [] stated that the

petitioner “has won several awards of excellence,” but the record neither documents nor identifies those claimed awards. 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’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)).

Dr. [REDACTED] forest research scientist with the [REDACTED] is on [REDACTED] affiliate faculty. Dr. [REDACTED] stated that “it is increasingly difficult to find native born research scientists with the knowledge, skill and desire to assist in the development of new and resilient plant communities.” A shortage of qualified U.S. workers is not grounds for granting the national interest waiver; the labor certification process takes local recruitment efforts into account. *See NYSDOT* at 218.

Dr. [REDACTED] stated that the petitioner’s “current research into the development of Camelina as a productive dry-land crop has great biological, social and economic implications for the marginal farmlands of the Central US and the interior basins of the Western US.” This is a statement about the intrinsic merit and national scope of her area of research; it does not establish that it is in the national interest for the petitioner, rather than a qualified U.S. worker, to perform that research.

Dr. James H. Lorenzen, now working with the International Institute of Tropical Agriculture in Tanzania, was formerly on the UI faculty and has remained in contact with the petitioner since then. Dr. Lorenzen described genetic research on plant models such as *Arabidopsis*, and stated that the petitioner “is part of this effort to understand how plants work . . . and to apply this knowledge to an oilseed crop of potentially high economic and environmental impact, *Camelina sativa*.” Dr. Lorenzen provided no details about the petitioner’s involvement in this research.

Dr. [REDACTED] associate professor at [REDACTED] and director of its Molecular Plant Sciences Interdisciplinary Graduate Program, stated:

In addition to assisting the graduate students and postdoc, [the petitioner] has also been responsible for supervising undergraduate research in my lab with an average of four undergraduate researchers per year. On top of these duties, [the petitioner] has been responsible for Agrobacterium-mediated plant transformation; care and maintenance of our plants in greenhouses and growth chambers; screening mutant populations; DNA cloning, extraction, purification and sequencing; as well as the maintenance and purchasing of equipment and daily lab supplies. . . .

In addition to the fundamental research we do on the model plant system *Arabidopsis thaliana*, we also work on translating this research-based knowledge into ways to improve agricultural crops such as wheat and the oil-seed plant *Camelina sativa*. [The petitioner] plays a critical role in these applied research programs. With [the petitioner’s] help we have identified a mechanism for increasing seed size in *Camelina*. As part of this project, she has demonstrated that these larger seeds can be

planted deeper [in] dry soil than normal plants. Her preliminary results demonstrate that these larger seeds have the energy reserves for not only reaching moisture deep in the soil but also emerging to the top for increased stand establishment. . . . [The petitioner] is currently working with me on additional experiments that will result in a peer-reviewed publication with [the petitioner] as an author. She is also working with a postdoc in my lab . . . to translate this approach into wheat, an important crop worldwide.

Dr. [REDACTED] is a research leader with the Agricultural Research Service, with offices at [REDACTED]. Dr. [REDACTED] called the petitioner “the ‘keystone’ of Dr. [REDACTED] research program,” with “a broad portfolio of skills that are critical to molecular biology.”

Dr. [REDACTED] now a research assistant professor at the [REDACTED] previously worked “for five years . . . as an Animal Reproductive Physiologist at [REDACTED].” Dr. [REDACTED] stated:

One of the most important contributions that [the petitioner] and colleagues have made to plant biology comes from studying a group of hormones, the brassinosteroids. Brassinosteroids are growth promoting steroid hormones critical for seeding and adult plant development. Recently the laboratory has demonstrated that the inactivation of these steroid hormones plays an important role in the regulation of plant development, including responses to light. Findings from this research provide insights into scientific understanding of how to enhance plant biomass production. . . .

Most remarkable finding of the [REDACTED] research group where [the petitioner] has been working is an identification of a group of plant-specific genes that, when mutated in a particular way, increase seed size and seedling height without adversely affecting adult stature. . . . By understanding these mechanism[s] her next focus is on technology transfer . . . towards applications that will develop increased biomass, yield, and better stand establishment in crop plants such as Camelina.

Dr. [REDACTED] now a genetic scientist at [REDACTED] California, was previously a postdoctoral research associate at [REDACTED]. Dr. [REDACTED] stated that the petitioner’s “works has [sic] been published and presented in several scientific meetings and conferences.” The record contains no evidence to support this assertion, and the petitioner herself did not identify any published work or conference presentations.

The director issued a request for evidence on February 4, 2013. The director instructed the petitioner to submit evidence to meet the third prong of the *NYS DOT* national interest test, particularly “copies of any published articles by other researchers citing or otherwise recognizing [the petitioner’s] research and/or contributions.” In response, the petitioner submitted a copy of her *curriculum vitae*, the abstract of an article she co-authored with Dr. [REDACTED] and a third researcher, and more letters.

The petitioner stated that she is “an indispensable member of both the managerial and research team” in Dr. [REDACTED] laboratory.

The “Posters/Publications” section of the petitioner’s *curriculum vitae* identified one article (matching the submitted abstract), and indicated that the article had been “[s]ubmitted [to] the [REDACTED] in 2013. This submission date falls after the petition’s May 2012 filing date, and therefore the article cannot serve as evidence of eligibility as of the filing date. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request. 8 C.F.R. § 103.2(b)(1). Therefore, subsequent events cannot cause a previously ineligible alien to become eligible after the filing date. See *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg’l Comm’r 1971).

The petitioner did not claim to have any previous articles in print, although Dr. [REDACTED] had previously referred to unidentified published work. The *curriculum vitae* also identified seven presentations, some of them at conferences, others at internal [REDACTED] events such as “poster award competitions.”

The petitioner stated: “While publications are one indicator of success in research, my contribution to my work is manifested in the daily creative research work, laboratory managerial responsibilities, training of students and innovative basic science research made possible by my wealth of experience accrued over the last 5 years.” The petitioner did not explain how her day-to-day management of Dr. [REDACTED] laboratory translates into influence on the field as a whole. The petitioner called herself “an exceptional researcher . . . with an impressive record of achievement and unique knowledge,” but offered no objective means to support this claim.

The petitioner submitted a new letter from Dr. [REDACTED] essentially a revised version of his previous letter including much of the same language. In an added passage, Dr. [REDACTED] asserted that the petitioner “is one of the leading experts at [REDACTED] for generating transgenic *Camelina*.” Dr. [REDACTED] repeated the assertion that “additional experiments . . . will result in a peer-reviewed publication,” but did not show that the petitioner’s work with *Camelina* had already had a demonstrable impact on the field as a whole.

Three other letters were from new witnesses. Dr. [REDACTED] biotech senior scientist for [REDACTED] stated that the petitioner’s “contributions to improve [*Camelina*] are highly important” to efforts to develop “vegetable oil high in omega-3-fatty acid.” The petitioner had previously emphasized aviation fuel as the goal of her research.

Dr. [REDACTED], associate professor at the [REDACTED], first contacted the petitioner in 2012 “to become more acquainted with her work in renewable bioenergy.” Like other witnesses, Dr. [REDACTED] described the petitioner’s modifications to *Camelina* seeds, but did not indicate the extent to which this work had influenced the field.

Dr. [REDACTED], assistant professor at [REDACTED], stated that the petitioner is working “to develop [*Camelina*] varieties with larger seeds,” and that “[i]t seems that [the

petitioner] is also working to translate this approach into wheat.” Dr. [REDACTED] claimed no source for this knowledge apart from “her resume.”

The director denied the petition on May 16, 2013, stating that the petitioner had established that her occupation has substantial intrinsic merit and that “the likely impact of the petitioner’s research services may be characterized as national in scope,” but that “the record lacks convincing evidence that [the petitioner] has . . . had an impact on the overall field.”

On appeal, the petitioner submits a letter from [REDACTED], immigration compliance specialist at [REDACTED] indicating that the university does “not sponsor U.S. permanent residence for foreign national individuals who are offered a temporary position.” The petitioner asserts that this policy “answers why labor certification is inappropriate in [this] case.” The petitioner does not explain why permanent immigration benefits are necessary for an admittedly temporary position; she already holds nonimmigrant status allowing her to work for [REDACTED] letter indicates that [REDACTED] does file immigrant petitions for foreign workers whom the university has “offered a permanent full-time job.” The clear implication is that [REDACTED] does not intend to employ the petitioner permanently or indefinitely, and therefore her part-time employment in Dr. [REDACTED] laboratory would end regardless of her immigration status.

The petitioner states: “I am a critical person in the project studying growth promoting hormones in plant[s]. Our team is the only one in the United States to receive National Science Foundation’s funding to study this phenomenon which will lead to crop improvement.” The petitioner does not show that this work has already led to such improvement on a practical level, or has otherwise had a demonstrable impact on the field as a whole as the *NYSDOT* guidelines require.

Furthermore, the record does not consistently show that the petitioner is primarily a researcher in her temporary role at [REDACTED]. Her supervisor, Dr. [REDACTED] has indicated that the petitioner has numerous other duties, including “the maintenance and purchasing of equipment and daily lab supplies.” The petitioner has sometimes referred to herself as a “lab manager,” a term that suggests a more administrative or logistical role.

The petitioner asserts: “The standard in a national interest waiver case for determining whether the petitioner has had an impact on the field is not ‘widespread recognition,’ but rather the standard elaborated in [*NYSDOT*].” Although the petitioner put the phrase “widespread recognition” in quotation marks, the director’s decision does not include that phrase. The director did use the phrase “widespread interest in[,] and reliance upon, the petitioner’s work,” but this phrase is consistent with influence on the field as a whole. The record contains speculation about what might eventually result from the petitioner’s work, but no documentary evidence of existing, concrete results that have already influenced the field.

The petitioner asserts that the director gave insufficient weight to witnesses’ letters. The Board of Immigration Appeals (BIA) 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

BIA 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 received consideration 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 above, evaluate the content of those letters as to whether they support the alien’s eligibility. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to “fact”). *See also Matter of Soffici*, 22 I&N Dec. 165.

Some of the witness letters contain little specific information about the petitioner’s work, stating instead that Dr. [REDACTED] laboratory produces important work and that the petitioner is a valued employee of that laboratory. Other witnesses provided more details, but the record contains no documentary evidence to support their claims.

The petitioner has not established a past record of achievement at a level that would justify a waiver of the job offer requirement. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that her influence be national in scope. *NYS DOT* at 217, n.3. More specifically, the petitioner “must clearly present a significant benefit to the field of endeavor.” *Id.* at 218. *See also id.* at 219, n.6 (the alien must have “a past history of demonstrable achievement with some degree of influence on the field as a whole.”).

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, 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 profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

Review of the record reveals another ground for denial of the petition. The AAO may identify additional grounds for denial beyond what the Service Center identified 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 Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

The petitioner, in her introductory statement, stated that she seeks classification “under the preference of alien of exceptional ability/advanced degree professional.” The petitioner did not specify which of the two classifications she sought, or explain how her submitted evidence established eligibility under either classification. While both classifications fall under section 203(b)(2) of the Act, they are different classifications with distinct requirements.

The director, in the denial decision, stated that “the petitioner holds the requisite advanced degree or exceptional ability.” The record, however, does not support this summary finding.

The USCIS regulation at 8 C.F.R. § 204.5(k)(3)(i) states that, to show that the alien is a professional holding an advanced degree, the petitioner must submit:

- (A) An official academic record showing that the alien has an United States advanced degree or a foreign equivalent degree; or
- (B) An official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

The petitioner has submitted copies of transcripts and diplomas from [REDACTED] in Nepal, where she earned bachelor’s and master’s degrees. She does not claim to have earned any academic degrees in the United States.

The petitioner’s initial submission included a letter from [REDACTED] chairman of [REDACTED] Department of Crop and Soil Sciences, who stated: “I am writing to assure you that [the petitioner] has the equivalent of a Master’s Degree from a university in the U.S. . . . [The petitioner’s] transcripts show that she studied the proper courses . . . and that her courses of study were an appropriate length . . . and that she wrote a thesis.”

Where an evaluation is in any way questionable, it may be discounted or given less weight. *Matter of Sea*, 19 I&N Dec. 817, 820 (Comm’r 1988). In this instance, the petitioner has not submitted a formal credential evaluation to establish the equivalency of her foreign degrees. The statement from her own employer does not establish [REDACTED] expertise or qualifications as a credential evaluator. The petitioner has not submitted sufficient evidence to establish that her foreign master’s degree is equivalent to a U.S. master’s degree.

In the alternative, the petitioner has not shown that her foreign baccalaureate degree is equivalent to a U.S. baccalaureate degree, which is a necessary element to establish five years of progressive post-baccalaureate experience.

The USCIS regulations at 8 C.F.R. § 204.5(k)(3)(ii) stated that, to show that the alien is an alien of exceptional ability in the sciences, arts, or business, the petition must include at least three of the following:

- (A) An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability;
- (B) Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought;
- (C) A license to practice the profession or certification for a particular profession or occupation;
- (D) Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability;
- (E) Evidence of membership in professional associations; or
- (F) Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

The petitioner did not specify which of the above requirements she claims to have fulfilled. The record addresses only one of them directly, specifically the first one dealing with academic degrees. The petitioner did not submit evidence to address any of the other five requirements. Therefore, the petitioner has not established exceptional ability in the sciences.

The AAO will dismiss the appeal 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, the petitioner has not met that burden.

ORDER: The appeal is dismissed.