U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

Public Copy

File: [redacted] Office: Nebraska Service Center Date: 29 NOV 2001

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Immigrant Petition for Alien Worker as an 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)

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

IN BEHALF OF PETITIONER: Self-represented

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is an educational institution. It seeks to classify the beneficiary as an outstanding professor 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 a journalism instructor, faculty advisor (newspaper). The director determined that the petitioner had not established the significance of the beneficiary's research, or that the beneficiary is recognized internationally as outstanding in his academic field, as required for classification as an outstanding researcher.

On appeal, the petitioner argues that the beneficiary has attained international recognition, but fails to explain how the beneficiary meets at least two of the regulatory criteria discussed below. The petitioner also requests oral argument. Oral argument is limited to cases in which cause is shown. A petitioner must show that a case involves unique facts or issues of law that cannot be adequately addressed in writing. In this case, no cause for oral argument is shown. Therefore, the petitioner's request for oral argument is denied.

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.

Service regulations at 8 C.F.R. 204.5(i)(3) state 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 former or current employer(s) and shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien.

This petition was filed on August 3, 2000 to classify the beneficiary as an outstanding professor in the field of journalism. Therefore, the petitioner must establish that the beneficiary had at least three years of teaching experience in the field of journalism as of August 3, 2000, and that the beneficiary's work has been recognized internationally within the field of journalism as outstanding. While one of the references claims that the beneficiary has six years of experience as an instructor and David Cordell from Edmonds Community College writes that the beneficiary has participated in lectures at that institution for the past two years, the record does not contain letters from the beneficiary's employers verifying that he had three years of teaching experience at the time the petition was filed. Moreover, the record does not contain a letter from the petitioner to the beneficiary reflecting a permanent job-offer at the time of filing. As these issues were not the basis of the director's decision, however, we will also discuss whether the beneficiary qualifies as an outstanding professor.

Service regulations at 8 C.F.R. 204.5(i)(3)(i) state that a petition for an outstanding professor or researcher must be accompanied by "[e]vidence that the professor or researcher is recognized internationally as outstanding in the academic field specified in the petition." The regulation lists six criteria, of which the petitioner must satisfy at least two. It is important to note here that the controlling purpose of the regulation is to establish international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. The petitioner submits evidence which appears to address the following criteria.

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

On his resume, the beneficiary lists several scholarships and writing prizes. The record contains little evidence of the significance of the scholarships or prizes. On appeal, the petitioner asserts that the Breadloaf and Squaw scholarships are recognized as universal standards of literary excellence.

Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972). Most scholarships, even competitive ones, are not evidence of international recognition. Similarly, local writing awards are not major prizes or awards which demonstrate international recognition.

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 director recognized that teaching involves judging the work of others, but concluded that such duties are inherent in the job of teaching and not evidence of international recognition. We concur. On appeal, the petitioner submits the program for the 2001 Hong Kong Conference on International Studies reflecting that the beneficiary served on a panel regarding international education. The beneficiary served on this panel by presenting a paper, and was not involved in judging the work of others. Thus, serving on this panel is not evidence that the beneficiary meets this criterion.

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

The petitioner submits reference letters from faculty and employees at the petitioner institution; Green River Community College in Auburn, Washington; Edmonds Community College in Lynwood, Washington; and the Seattle Community College Federation of Teachers. The letters praise the beneficiary's writing and teaching abilities, asserting that he has dramatically improved the student newspaper, *The Collegian*. They also assert that the beneficiary was instrumental in initiating a degree and faculty exchange program between U.S. and Indian colleges. As these letters are all from local colleges, they cannot serve as evidence that the beneficiary has attained international recognition in his field for those contributions.

On appeal, the petitioner refers to the beneficiary's travel essays published by the Seattle Times, which will allegedly be syndicated. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the beneficiary becomes eligible under a new set of facts. See Matter of Katigbak, 14 I&N Dec. 45, 49 (Comm. 1971). The record does not reflect that the travel essays are considered by the journalism community to be a major contribution or that the beneficiary had attained international recognition for these essays prior to the date of filing.

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

The beneficiary has written several articles, stories, and poems, some of which have been awarded local prizes. Writing and getting published are inherent to the field of journalism. The record is absent evidence that the beneficiary has attained international recognition based on these writings. Moreover, the record does not indicate that the beneficiary has authored any *scholarly*, peer-

reviewed articles in the field of journalism, as opposed to travel essays, personal reflections and fiction.

On appeal, the petitioner mostly asserts that the beneficiary is "outstanding" and that international recognition can be inferred by the fact that the Seattle Times publishes his essays and that the teacher's union in Seattle supports his petition. The regulatory criteria discussed above relieve the Service from relying on the opinions of peers regarding whether or not a beneficiary meets someone's subjective definition of "outstanding" or inferring international recognition from job offers. A petitioner cannot avoid meeting at least two of the regulatory criteria simply by submitting subjective opinions that a beneficiary is "outstanding."

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

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.