



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

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 7584818

Date: APR. 29, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Outstanding Professors/Researchers)

The Petitioner, a university, seeks to classify the Beneficiary as an outstanding professor or researcher in the field of cell biology.¹ See Immigration and Nationality Act (the Act) section 203(b)(1)(B), 8 U.S.C. § 1153(b)(1)(B).

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary is internationally recognized as outstanding in his academic field.

On appeal, the Petitioner submits additional documentation and a brief asserting that the Director overlooked or did not properly evaluate evidence in the record, and that this evidence establishes that the Beneficiary qualifies under the high standards of this immigrant visa classification.

In these 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. Upon *de novo* review, we will dismiss the appeal.

I. LAW

The statute requires that beneficiaries under this immigrant visa classification should stand apart in their academic area based on international recognition. To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence and demonstrates the beneficiary is recognized internationally within the academic field as outstanding.

Specifically, section 203(b)(1)(B)(i) of the Act provides that a foreign national is an outstanding professor or researcher 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 Beneficiary's research areas relate to , , and

(iii) the alien seeks to enter the United States [for a qualifying position with a university, institution of higher education, or certain private employers].

To establish a professor or researcher's eligibility, a petitioner must provide initial qualifying documentation that meets at least two of six categories of specific objective evidence set forth at 8 C.F.R. § 204.5(i)(3)(i)(A)-(F). This, however, is only the first step, and the successful submission of evidence meeting at least two criteria does not, in and of itself, establish eligibility for this classification.² When a petitioner submits sufficient evidence at the first step, we will then conduct a final merits determination to decide whether the evidence in its totality shows that the beneficiary is recognized as outstanding in his or her academic field. 8 C.F.R. § 204.5(i)(3)(i).

Finally, the regulation at 8 C.F.R. § 204.5(i)(3)(ii) provides that a petition for an outstanding professor or researcher must be accompanied evidence that the foreign national has at least three years of experience in teaching and/or research in the academic field.

II. ANALYSIS

The Beneficiary received his Ph.D. in physiology (2012) from [redacted] University and a Bachelor of Science degree in biotechnology (2006) from [redacted] University. He is currently a research associate at the Petitioner's [redacted] (October 2013 - present) and has previously worked as a postdoctoral fellow for the [redacted] at [redacted] University (September 2012 - September 2013).

In his decision, the Director found that the Beneficiary met three of the evidentiary criteria, thus satisfying the initial evidence requirement, but that the totality of the record did not establish the requisite international recognition in his field. Upon review, we agree with the Director that the evidence demonstrates the Beneficiary's service as a judge of the work of others, original scientific or scholarly research contributions to the academic field, and authorship of scholarly articles. As he therefore meets the initial evidence requirements, we will consider all the evidence of record when conducting the final merits determination.

In a final merits determination, we analyze a researcher or professor's accomplishments and weigh the totality of the evidence to evaluate whether a petitioner has demonstrated, by a preponderance of the evidence³, that the beneficiary's achievements are sufficient to demonstrate that he has been internationally recognized as outstanding in the field of endeavor. See section 203(b)(1)(B)(i) of the Act; 8 C.F.R. § 204.5(i)(3)(i). In this matter, we agree with the Director that the Petitioner has not shown the Beneficiary's eligibility.

² USCIS has previously confirmed the applicability of this two-part adjudicative approach in the context of outstanding professors and researchers. See USCIS Policy Memorandum PM-602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 20 (Dec. 22, 2010), <https://www.uscis.gov/legal-resources/policy-memoranda>.

³ A petitioner must establish that the beneficiary meets the eligibility requirements of the benefit sought by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). In other words, a petitioner must show that what it claims is "more likely than not" or "probably" true. To determine whether a petitioner has met its burden under the preponderance standard, we consider not only the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Id.* at 376; *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

On appeal, the Petitioner argues that “the reasons cited for denial were unduly restrictive” and that “based on the preponderance of evidence, the petition should have been approved on its merits.” In the final merits analysis, the Director’s decision discussed the evidence relating to the Beneficiary’s awards, memberships, peer review activities, research contributions, published and presented work, and citation history, and explained why that evidence, as part of the entirety of the record, was insufficient to demonstrate the Beneficiary’s recognition as outstanding at the international level.

It is important to note that the controlling purpose of the regulation at 8 C.F.R. § 204.5(i)(3)(i) is to establish a beneficiary’s international recognition, and any evidence submitted to meet these criteria must therefore be to some extent indicative of international recognition. More specifically, outstanding professors and researchers should stand apart in the academic community through eminence and distinction based on international recognition. *Employment-Based Immigrants*, 56 Fed. Reg. 30703, 30705 (proposed July 5, 1991) (enacted 56 Fed. Reg. 60897 (Nov. 29, 1991)). Therefore, to the extent that the Director first determined that the evidence satisfied the plain language requirements of specific evidentiary criteria, and then evaluated whether that evidence, as part of the entirety of the record, was sufficient to demonstrate the Beneficiary’s recognition as outstanding at the international level, his analysis was in keeping with the statute, regulations, and policy pertaining to the requested immigrant visa classification.

The record indicates that the Beneficiary received several Certificates of Honor from [redacted] University for his academic achievements and research projects at that university. In addition, the Petitioner submitted documentation showing that the Beneficiary received a \$500 travel award from the Petitioner’s Postdoctoral Association “Career Development fund toward [the Beneficiary’s] conference expenses” (2015). The Petitioner, however, has not offered sufficient information about these awards or evidence of their stature in the Beneficiary’s field.

The record also includes a Certificate of Honor stating that the Beneficiary received a [redacted] Award” from [redacted] University (2012). In response to the Director’s request for evidence, the Petitioner provided a June 2019 letter from [redacted] professor at [redacted] University, discussing the Beneficiary’s [redacted] Award. [redacted] asserted that “[t]his award was created by [redacted] and [redacted] University to acknowledge and honor young postdoctoral investigators, who have accomplished outstanding achievement in biomedical research. . . . This annual award is only honored to limited number of exceptional researchers (not more than 5).” While [redacted] further claimed that the Beneficiary’s [redacted] Award is “very prestigious and highly selective,” the record does not include supporting evidence demonstrating this award’s international significance.

With regard to the Beneficiary’s awards [redacted] University, his [redacted] from [redacted] University, and his travel award from the Petitioner, these awards reflect recognition from the Beneficiary’s alma maters and employer, and not international recognition in the academic field. The Petitioner has not demonstrated that the Beneficiary’s awards rise to the level of “major prizes or awards for outstanding achievement in the academic field.” See 8 C.F.R § 204.5(i)(3)(i)(A). Nor has the Petitioner shown that these awards demonstrate the Beneficiary’s recognition as outstanding at the international level in his field.

As it pertains to the Beneficiary's membership in associations in the academic field, the record contains documentation indicating that he is a member of the Society for Neuroscience, Genetics Society of America, and New York Academy of Sciences. The Petitioner, however, did not provide these associations' constitution or bylaws, or other documentation showing their membership requirements. The Petitioner therefore has not demonstrated that the Beneficiary's membership with the Society for Neuroscience, Genetics Society of America, and New York Academy of Sciences required "outstanding achievements." See 8 C.F.R § 204.5(i)(3)(i)(B). Furthermore, the evidence is insufficient to show that these memberships render the Beneficiary as internationally recognized as outstanding in the fields of cell biology or neuroscience.

Regarding the Beneficiary's participation as a judge of the work of others, the Petitioner provided a June 2019 letter from his supervisor, [redacted] professor and director of the Petitioner's [redacted] stating:

In the peer review process, [the Beneficiary] read manuscripts in detail, evaluated their importance according to the current state of the field, examined the data quality based on his profound experimental knowledge, and wrote critiques providing an overall judgment and detailed comments/suggestions. His opinions are always insightful, well-informed and objective, and I have counted on him to make decisions on these manuscripts.

The record contains emails from [redacted] asking the Beneficiary for input relating to the review of five manuscripts submitted to *Proceedings of the National Academy of Sciences (PNAS)*, *PLOS One*, *Genome*, *Cell*, and *Scientific Reports*. The Petitioner also provided documentation of the "review comments" the Beneficiary prepared at [redacted]'s request. In these instances, the editorial staff of the aforementioned journals first directed their request to [redacted] who then assigned the manuscripts to the Beneficiary for review. An evaluation of the significance of this experience is appropriate to determine if such evidence is indicative of the outstanding achievement required for this classification.⁴ In many scientific and academic fields, peer review is a routine part of the process through which articles are selected for publication or presentation at conferences. Participation in the peer review process does not automatically demonstrate that an individual is internationally recognized as outstanding in his academic field.

Here, the Petitioner has not demonstrated that the Beneficiary's preparation of "review comments" to assist [redacted] in making "decisions on these manuscripts" sets the Beneficiary apart from others in his field. Nor has the Petitioner shown that the level and frequency of the Beneficiary's peer review activities are indicative of or consistent with being recognized internationally as outstanding in the cell biology or neuroscience fields. Without evidence that sets the Beneficiary apart from others in the field, such as evidence that he has completed reviews for a substantial number of distinguished journals or conferences relative to others in his field, served in editorial positions for highly regarded journals or publications, or chaired technical committees for reputable conferences, the Petitioner has not

⁴ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 19 (stating that an individual's participation should be evaluated to determine whether it was indicative of being recognized internationally as outstanding in a specific academic area).

established that the Beneficiary's peer review experience has resulted in, or is reflective of, recognition at an international level for being outstanding in the field.

With respect to the Beneficiary's original research contributions to the academic field, the Petitioner offered reference letters discussing his research projects relating to [redacted] and [redacted]⁵. For example, the Beneficiary's doctoral thesis advisor, [redacted]⁶, currently a professor at [redacted] Institute for [redacted], stated that his and the Beneficiary's work at [redacted] University "focused on [redacted], which is widely happened [*sic*] in acute onsets of many human diseases, such as brain ischemia, infection, and traumatic brain injury." [redacted] contended that the Beneficiary's "research identified new mechanisms and biomarkers of [redacted], and provided the foundation for novel therapeutic strategies," but he did not further elaborate and identify which therapeutic strategies were developed based on the Beneficiary's research and how they have impacted medical treatment for human diseases.

Furthermore, [redacted] professor at University of [redacted] Medical School, asserted that that the Beneficiary "identified [redacted] as a specific biochemical marker for [redacted]. This is a crucial finding, because classification of [redacted] is a key step for therapeutic choices, which are greatly complicated by the uncertainty of morphological changes of different [redacted] types." While [redacted] explained that the Beneficiary's work suggests that [redacted] is an essential and conserved step for the execution of [redacted]" his statements are insufficient to demonstrate that the Beneficiary's findings have influenced the field of cell biology in a substantial way that signifies international recognition or outstanding achievement in the academic field.

Regarding the Beneficiary's research involving regulation of [redacted], [redacted] professor and head of the Petitioner's [redacted]⁷, stated that the Beneficiary "made a breakthrough discovery on [redacted] in neurons. He identified [redacted] as a crucial regulator of [redacted] movement and distribution." Likewise, [redacted] professor of biology at [redacted] University, contended that the Beneficiary's work "provides a compelling and completely novel insight to the field that [redacted] in neurons, and it controls [redacted] and is required for the normal function of neurons." Additionally, [redacted] indicated that the Beneficiary "identified [redacted] as the [redacted] in neurons" and that this mechanism of [redacted] "may represent the root cause" of diseases such as [redacted]. [redacted] further noted that the Beneficiary "identified the [redacted] and that [redacted] may play a general role in [redacted] disorders." While [redacted] claimed that the Beneficiary's work "has the potential to transform the [redacted] field," [redacted] contended that it "points out a new route to treat these catastrophic diseases," and [redacted] stated that it will "stimulate further researches . . . to accurately understand the role of localized [redacted] function in neurons," they did not offer specific examples of how the Beneficiary's findings have already affected therapies for treating [redacted] or

⁵ While we discuss a sampling of the reference letters, we have reviewed and considered each one.

⁶ [redacted] was previously an assistant professor at [redacted] University where he supervised the Beneficiary's graduate and postdoctoral research.

⁷ [redacted] is also a Nobel Laureate in [redacted] (2017).

have otherwise influenced the field at a level commensurate with being internationally recognized as outstanding.

In addition, [redacted] assistant professor with University of [redacted] Medical Center, indicated that the Beneficiary's "work uncovered the missing link between the human mutations and [redacted], and mechanistically explained how these mutations impair [redacted] and contribute to disease [redacted]" [redacted] further asserted that the Beneficiary's findings "will certainly stimulate many follow-up studies and reform the [redacted] and [redacted] fields," but the record does not show that his work has already had such an effect.

We recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, presentation, funding, or academic credit, but not every research finding that broadens knowledge in a particular field renders an individual's work as outstanding or internationally recognized in his academic area. The letters of support offered by the Petitioner do not contain sufficient information and explanation, nor does the record include adequate corroborating evidence, to show that the Beneficiary's work is viewed by the overall academic field, rather than by the Petitioner's faculty and a solicited few, as substantially influential or otherwise indicative of international recognition.

The Petitioner maintains that the Beneficiary's publication record renders him internationally recognized as outstanding in his field because his articles have been featured in "the most selective, high-impact and prestigious journals in the world." The record includes evidence showing that the Beneficiary has authored five scholarly articles from 2014 - 2019 in *PNAS*, *Journal of Cell Science*, *Scientific Reports*, *bioRxiv*, and *Methods in Molecular Biology*. We acknowledge that the Petitioner has published articles in at least two highly ranked journals. Publication in a highly ranked journal in-and-of-itself, however, is insufficient to demonstrate that a beneficiary is recognized internationally as outstanding in the academic field. Moreover, that a publication bears a high ranking or impact factor is reflective of the publication's overall citation rate. It does not, however, show the influence of any particular author or demonstrate how an individual's research has had an impact within the field. Here, the Petitioner has not established that publishing just five articles in the aforementioned journals is indicative of the Beneficiary being internationally recognized as outstanding in the academic field.

As authoring scholarly articles is often inherent to the work of professors and researchers, the citation history or other evidence of the influence of the Beneficiary's articles can be an indicator to determine the impact and recognition that his work has had on the field and whether his articles demonstrate that he is internationally recognized as outstanding in the academic field.⁸ Here, the Petitioner submitted information from Google Scholar reflecting the citation counts for the Beneficiary's five papers:

[redacted]⁹ received 19 citations,
[redacted] received 10 citations, [redacted]
[redacted] received 3 citations, [redacted] was cited once,

⁸ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 20 (stating that an individual's authorship of articles should be evaluated to determine whether it was indicative of being recognized internationally as outstanding in a specific academic area).

⁹ In addition to [redacted] [redacted] and the Beneficiary, this article had nine additional authors.

and [redacted] had no citations. While the Beneficiary's citations, both individually and collectively, show that the field has taken some notice of his work, the Petitioner has not established that these citations are sufficient to demonstrate a level of attention commensurate with outstanding achievement and international recognition in his field. For instance, the Petitioner has not compared the number of the Beneficiary's authored works and their citation rate to other researchers or professors in his field to differentiate his work as outstanding.

Furthermore, the Petitioner submitted a "Literature Synopsis" in *Stroke* (2014) in the area of "Basic Science." This article summarizes three recent studies, including the paper in *PNAS* authored by [redacted] and the Beneficiary, entitled [redacted]. The synopsis in *Stroke* noted that their paper in *PNAS* was among "three recent studies" that "[redacted]" but it only summarizes their work and does not elaborate on the significance of the Beneficiary's findings or distinguish his work as outstanding.

The record also includes examples of several review articles and a book chapter which cited to the Beneficiary's work.¹⁰ A review of those articles, though, does not show the significance of his research or demonstrate that it has widely impacted the field.¹¹ For instance, the Petitioner provided an article entitled, [redacted] (*Development*), in which the authors cited to the Beneficiary's paper in *PNAS*. The article in *Development* mentioned the Beneficiary's findings that [redacted] and that [redacted]. While the authors referenced the Beneficiary's work twice, their article does not highlight his research findings as outstanding, nor does it distinguish his paper in *PNAS* from the other 72 papers they cited.

Another article presented by the Petitioner, entitled [redacted] (*Aging and Diseases*) also cites to the Beneficiary's article in *PNAS*. However, the article in *Aging and Diseases* does not differentiate the Beneficiary's written work from the 138 other cited papers. Moreover, the article does not indicate that the Beneficiary's paper in *PNAS* is outstanding or otherwise viewed as widely influential in the academic field. Rather, the paper's authors cited to the Beneficiary's article and two others as offering information about [redacted] and concluded that this topic "is rarely studied and need[s] further elucidation."

Further, several references indicated that the Petitioner has been invited to present his findings at prestigious conferences. For instance, [redacted], a professor and director of the Petitioner's [redacted], stated that the Beneficiary "was invited to give a talk" at the Petitioner's [redacted] Neuroscience Retreat. In addition, [redacted], associate professor at [redacted]

¹⁰ The Petitioner contends that these articles constitute published material in professional publications written by others about the Beneficiary's work in the academic field under 8 C.F.R. § 204.5(i)(3)(i)(C). The submitted articles, however, are about the current state of understanding on a particular research topic and only briefly mention the Beneficiary's specific work. See USCIS Policy Memorandum PM 602-0005.1, supra, at 17 ("Articles that cite the alien's work as one of multiple footnotes or endnotes are not generally 'about' the alien's work"). The Petitioner has not established that these articles are sufficient to show that the Beneficiary is recognized internationally as outstanding for his work in the field.

¹¹ Although we discuss representative sample articles here, we have reviewed and considered each one.

the [redacted] and an organizer of [redacted] sessions and workshops for the Genetic Society of America, noted that the Beneficiary presented his work in a session at the “Annual [redacted] Conference in 2013.” [redacted] asserted that the Beneficiary’s selection to give a lecture about his development of “[redacted]” is evidence of the high recognition his work has received from the scientific community. The letters, however, do not explain how the Beneficiary’s presentations and conference activities have widely affected or influenced the cell biology or neuroscience fields. Participation in a conference demonstrates that Beneficiary’s research findings were shared with others in his field, but selection to speak, without documenting the impact of his presented research, is not sufficient to demonstrate that his work is recognized internationally as outstanding in the academic field.

While the evidence indicates that the Beneficiary is a skilled researcher, the Petitioner has not established that he stands apart in the academic community through eminence and distinction based on international recognition. After consideration of the totality of the evidence of the Beneficiary’s work in the field of cell biology, including evidence of his published and presented work, citations to his articles by others, his review of manuscripts at the request of his supervisor, his awards and memberships, and the opinion of experts in the field, we find that it does not sufficiently establish that he has been internationally recognized as an outstanding researcher.

III. CONCLUSION

The evidence in the record demonstrates that the Beneficiary meets at least two of the evidentiary criteria, and thus the initial evidence requirements for this classification. A review of the totality of the evidence, however, does not establish that he is internationally recognized as an outstanding professor or researcher in his academic field. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.