



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

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

In Re: 20186886

Date: FEB. 28, 2022

Appeal of Nebraska Service Center Decision

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

The Petitioner, a public university, seeks to classify the Beneficiary as an outstanding researcher. Immigration and Nationality Act (the Act) section 203(b)(1)(B), 8 U.S.C. § 1153(b)(1)(B). This first preference classification makes immigrant visas available to foreign nationals who are internationally recognized as outstanding in their academic field.

The Director of the Nebraska Service Center denied the petition, concluding while the Petitioner established that the initial evidence requirements for the requested classification were met, it did not establish that the Beneficiary is internationally recognized as outstanding in her academic area.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

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
- (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.¹ When a petitioner submits sufficient evidence at the first step, we will then conduct a

¹ USCIS has previously confirmed the applicability of this two-part adjudicative approach in the context of outstanding professors and researchers. USCIS Policy Memorandum, *Evaluation of Evidence Submitted with Certain Form I-140*

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).

II. ANALYSIS

The Petitioner currently employs the Beneficiary as an associate professor of pharmaceutical sciences. Prior to beginning in this position in 2019, the Beneficiary served as an associate scientist with [REDACTED]. She earned a Ph.D. in pharmaceutical sciences from [REDACTED] University in 2018, and bachelor's and master's degrees in pharmacy from [REDACTED] University in India. The record shows that she has focused her research on the transdermal and topical delivery of drugs.

In his decision, the Director determined that the Beneficiary met three of the criteria under 8 C.F.R. § 204.5(i)(3)(i), relating to her participation as a judge of the work of others, her original scientific contributions to the academic field, and her authorship of scholarly books or articles in her academic field. Upon review, we agree with the Director's conclusions, and will therefore turn to the final merits determination.

In a final merits determination, we examine and weigh the totality of the evidence to determine whether the Beneficiary has been recognized internationally as outstanding in a specific academic field. Here, the Petitioner has not offered sufficient evidence that the Beneficiary meets that standard.

The Petitioner did not submit a legal brief on appeal, but asserts in a short letter that the Director did not give sufficient consideration to the evidence of citations to the Beneficiary's published work in the record, as well as the expert reference letters submitted. However, the letter does not cite specific examples of errors in the Director's decision. Regarding citations to the Beneficiary's published work, we note that the decision devotes a paragraph to analysis of the number of citations by other researchers to the Beneficiary's publications, explaining that the record lacks supporting evidence to show that this figure equates to recognition as outstanding in relation to her peers in pharmaceutical science. After review, we agree that the evidence regarding citations to the Beneficiary's published papers does not show that their quantity is indicative of recognition of her work as outstanding. We note that in responding to the Director's notice of intent to deny (NOID), the Petitioner submitted the title page of some of the journal articles which cite to the Beneficiary's work, with particular emphasis placed upon the citations by researchers from countries around the world. However, this evidence shows only that other researchers have referred to her work in some way, and does not establish that those researchers considered the Beneficiary's research to be outstanding or that the frequency or geographic scope of the citations denotes recognition as outstanding.

Some of the reference letters submitted by the Petitioner discuss how the work of other researchers has been impacted by the Beneficiary's published work. [REDACTED] of [REDACTED] University, who was the Beneficiary's Ph.D. supervisor, writes that the novelty of her work on a [REDACTED] for the delivery of the HIV medicine [REDACTED] was highlighted in an editorial and other review articles, and that other researchers selected an [REDACTED] based upon information in one of the Beneficiary's papers that they referenced. However, although as noted the Petitioner provided

Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14, PM-602-0005.1 (Dec. 22, 2010).

copies of the title page of some these citing articles, this evidence does not show the context in which the Beneficiary's work was cited or discussed, nor was a copy of the editorial mentioned in the letter submitted. While we do not question the veracity of [redacted]'s statements, the limited information she provides in her letter is insufficient to support her opinions concerning the outstanding nature and recognition of the Beneficiary's research.

Similarly, [redacted] of [redacted] writes that two review articles published in 2020 cited to the Beneficiary's published research on [redacted] of a drug to potentially treat cocaine addiction, but again only the title page of those review articles appear in the record, and they do not provide the context in which her work was referenced. [redacted] also describes the Beneficiary's work on the same project involving [redacted] delivery of HIV drugs described by [redacted] noting as she did that other research groups have cited to the Beneficiary's published work in this area. In addition, she describes the number of citations to the Beneficiary's work as "high" and indicative of the importance and influence of her research, but does not elaborate on the basis for this statement.

Another reference letter was written by [redacted] of the University of [redacted] who states that he works in the same field as the Beneficiary but does not indicate how he became aware of her research. They nonetheless describe the results of several of her research projects, including her development of a [redacted] incorporating an [redacted] protective agent for delivery via [redacted] and her use of [redacted] to enhance [redacted] delivery of [redacted] hormone. [redacted] also notes that the results of the Beneficiary's research have been published in reputable peer-reviewed journals, and that her citation count shows that her work is followed by others in the field.

[redacted] of [redacted] University states in his letter that the Beneficiary's paper on the [redacted] delivery of [redacted] "was extremely useful for my studies," but he does not provide details of how or whether he built upon her work in his research. Further, while he indicates that the Beneficiary's work "has definitely contributed to progress" in the field of [redacted] drug delivery, he does not explain how it stands out from the contributions others have made through their own research.

We note that in general, the submission of letters of support is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See Matter of Caron International*, 19 I&N Dec. 791 (Comm'r 1988); *see also Matter of V-K-*, 24 I&N Dec. at 500 n.2 (BIA 2008). Thus, the content of the writers' statements and how they became aware of the petitioner's reputation are important considerations. The reference letters written by these and other experts describe technical aspects of the Beneficiary's research in detail, as well as the potential for its use in delivering treatment for several medical conditions. However, the statements regarding how the published results of her work have been received by the field are largely conclusory and not supported by documentary evidence in the record.

In its response to the Director's notice of intent to deny (NOID), the Petitioner provided evidence about the quality of the publications in which her work was published, including impact factor and subject area ranking. However, as noted in the Director's decision, we will not presume that every author whose work is published in a journal with a high impact factor or ranking has a high degree of

influence in its field. Rather, we look to information about the impact of the individual article, which can be shown by the quality and quantity of citations to the article as well as other factors. Here, we agree with the Director that the totality of the evidence does not establish that the citation of the Beneficiary's published research shows that she and her work have been recognized as outstanding.

The record also includes evidence pertaining to other facets of the Beneficiary's work. This evidence shows that she was appointed as a member of the [redacted] for the journal *Current Drug Delivery*, that her proposal as a [redacted] for the journal *AAPS PharmSciTech* was accepted, and that she has performed peer review of manuscripts submitted to these and other journals that publish research in her field. We first note that the record does not include information about the duties of an [redacted] member or any requirements, and thus does not indicate that her appointment to this role for *Current Drug Delivery* was based on her standing in the field or has contributed to her standing. In addition, the evidence does not show that the acceptance of her [redacted] [redacted] proposal was based upon recognition of her previous work, or that the preliminary stage of this project at the time of filing had already added to the overall recognition of her in the field.

As for her activity as a peer reviewer, some of the authors of the reference letters provide their opinions regarding how this reflects upon her recognition within the field. [redacted] writes that "Invitations for peer review... are only extended to those considered to be amongst the most influential in our field." However, we note that although the emails seeking her participation as a peer reviewer thank her for contributing her time as a subject matter expert, they also note that it is the first step in the peer review process and that the ultimate decision of whether to publish is made by an editor. Further, [redacted] states in his letter that the Beneficiary's peer review activity "is an evidence of her scientific proficiency and knowledge" and a contribution to the field of pharmaceutical sciences, but stops short of citing this as evidence of international recognition as outstanding.

The Petitioner also submitted evidence of the Beneficiary's receipt of a [redacted] Award from The American Association of Colleges of Pharmacy in 2020, as well as local media coverage of her receipt of this grant and the research it allowed her to pursue. While a letter from the Petitioner's [redacted] [redacted] states that this grant "is given to the most promising young pharmaceutical scientists," the record does not demonstrate that recipients of this award were the subjects of professional or widespread media coverage or were otherwise recognized broadly in the field as a result.

The evidence submitted by the Petitioner shows that the Beneficiary has contributed to the field of the transdermal and topical delivery of drugs through her original research published in scientific journals and presented at conferences, as well as through her service as a peer reviewer. However, after consideration of the totality of this evidence, which also included her receipt of a grant and several reference letters, we conclude that it does not establish that she has been internationally recognized as an outstanding researcher in the field of pharmaceuticals, or in her specialty of the [redacted] [redacted] delivery of drugs.

III. CONCLUSION

The evidence demonstrates that the Beneficiary meets at least two of the evidentiary criteria under 8 C.F.R. § 204.5(i)(3)(i). However, upon review of the totality of this evidence, it does not establish that she is internationally recognized as an outstanding professor or researcher in her academic field. For this reasons, the appeal will be dismissed.

ORDER: The appeal is dismissed.