



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

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

In Re: 19981023

Date: JUNE 29, 2022

Appeal of Nebraska Service Center Decision

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

The Petitioner, a pharmaceutical research and development company, seeks to classify the Beneficiary as an outstanding professor or researcher in the field of chemistry. *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 Petitioner did not establish, as required, that it employs at least three persons full-time in research positions and that the Beneficiary is internationally recognized as outstanding in her academic field.

On appeal, the Petitioner submits 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

Section 203(b)(1)(B) 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. 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 internationally recognized as outstanding in their academic field.¹ 8 C.F.R. § 204.5(i)(3)(i).

Furthermore, the regulation at 8 C.F.R. 204.5(i)(3)(iv) specifies that an offer of employment must be submitted in the form of a letter from:

- (A) A United States university or institution of higher learning offering the alien a tenured or tenure-track teaching position in the alien's academic field;
- (B) A United States university or institution of higher learning offering the alien a permanent research position in the alien's academic field; or
- (C) A department, division, or institute of a private employer offering the alien a permanent research position in the alien's academic field. The department, division, or institute must demonstrate that it employs at least three persons full-time in research positions, and that it has achieved documented accomplishments in an academic field.

II. ANALYSIS

A. Whether the Beneficiary is Recognized Internationally as Outstanding in Her Academic Area

The Beneficiary received her Ph.D. in Chemistry from [redacted] University [redacted] in May 2016. She served as a "Senior Analytical Chemist" (June 2016 – August 2018) and "Analytical Scientist" (August 2018 – October 2018) at [redacted] (an analytical testing services laboratory) and also as "Scientist" (October 2018 – November 2019) at [redacted] (a biopharmaceutical company). The Beneficiary has been employed as an "Analytical Chemistry Research Scientist I" with the Petitioner since December 2019.

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 her 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 she 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's accomplishments and weigh the totality of the evidence to evaluate whether a petitioner has demonstrated, by a preponderance of the evidence,²

¹ USCIS has confirmed the applicability of this two-step analysis to evaluate the evidence submitted with the petition to demonstrate eligibility for classification as an outstanding professor or researcher. See 6 *USCIS Policy Manual* F.3(B), <https://www.uscis.gov/policy-manual>.

² A petitioner must establish that the beneficiary meets the eligibility requirements of the benefit sought by a preponderance

that the beneficiary's achievements are sufficient to demonstrate that she 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.³

The Petitioner states on appeal that the Beneficiary's work has been cited numerous times in "articles authored by other scientific researchers," that she was asked to peer "review 16 scholarly journal articles" in her field, and that she provided reference letters from "leading researchers in the field." The Petitioner further contends that "the preponderant burden of proof has been satisfied and the petition warrants approval."

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. 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.

As it pertains to the Beneficiary's participation as a judge of the work of others, the Petitioner submitted evidence indicating that she peer reviewed four papers for *Scientific Reports*, two papers for *ACS Applied Materials & Interfaces*, two papers for *Nano Energy*, two papers for *Chinese Journal of Chromatography*, one paper for *PLOS One*, and one paper for the *6th Global Conference on Materials Science and Engineering*.⁴ An evaluation of the significance of the Beneficiary's judging experience is appropriate to determine if such evidence is indicative of the outstanding achievement required for this classification.⁵ 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 her academic field. Here, the Petitioner has not established that the level and frequency of the Beneficiary's participation as a reviewer of manuscripts are indicative of or consistent with being recognized internationally as outstanding in her academic area.⁶

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).

³ In the final merits analysis, the Director's decision discussed the documentation relating to the Beneficiary's peer review service, research contributions, published and presented work, and citation evidence, 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.

⁴ These counts do not include resubmissions of the same paper after revisions by the authors.

⁵ *See* 6 USCIS Policy Manual, *supra*, at F.3(B)(1) (stating that a beneficiary's participation as a judge should be evaluated to determine whether it was indicative of the beneficiary being recognized internationally as outstanding in a specific academic area).

⁶ For example, the record does not contain evidence demonstrating that the specific journals and conference that invited the Beneficiary to serve as a peer reviewer reserve their invitations for researchers who are recognized internationally as outstanding in the academic field.

At issue here is the extent to which the Beneficiary's peer review activities have required, reflected, or resulted in her being recognized internationally as outstanding in her field. The Petitioner, however, did not present documentation indicating the conference and journals' specific requirements for selection of peer reviewers. For instance, reviewing manuscripts for journals or conferences that select their reviewers based on subject matter expertise would not provide strong support for the petition, because possessing expertise in a given field is a considerably lower threshold than being recognized internationally within the academic field as outstanding. Therefore, although the record shows that the Beneficiary has reviewed multiple journal articles and a conference paper, this evidence does not demonstrate how her peer review activity compares to or differentiates her from her peers in the field. Similarly, the evidence in the record does not show that the Beneficiary has received any international recognition for her service as a peer reviewer. Without this or other evidence differentiating her from others in her field,⁷ the Petitioner has not established how the Beneficiary's peer review experience contributes to establishing that she is internationally recognized as outstanding in her academic field. 8 C.F.R. § 204.5(i)(3)(i).

With respect to the Beneficiary's research contributions, the record includes letters of support discussing her research projects at [redacted] and [redacted].⁸ For example, regarding the Beneficiary's research involving [redacted], [redacted] professor of chemistry at [redacted] stated that the Beneficiary "developed the first [redacted] [redacted] He further explained that the Beneficiary's [redacted] "can regenerate [redacted] and "provided over 50% less energy loss compared to conventional [redacted] Likewise, [redacted] professor of chemistry at University [redacted] asserted that the Beneficiary's "work demonstrated that [redacted] can be manipulated by fine-tuning the [redacted] structure, [redacted] performance can be further optimized by pairing suitable [redacted] with [redacted]"⁹ While [redacted] and [redacted] both describe the Beneficiary's research as "significant," they did not offer specific examples of how her findings have affected the [redacted] industry, have been widely utilized in the field, or have otherwise influenced her field at a level commensurate with being internationally recognized as outstanding.

In addition, [redacted] associate professor at [redacted] stated that the Beneficiary "successfully developed [redacted] available for [redacted] Her work significantly improved the tunability and economic viability of producing [redacted] with high efficiency." The record, however, does not show that the Beneficiary's work has had a meaningful impact in the academic field or has otherwise risen to the level of a contribution that is recognized internationally as

⁷ For example, the record does not include documentation that sets the Beneficiary apart from others in the field, such as evidence that she has completed reviews for a substantial number of distinguished journals or conferences relative to others in her field, served in editorial positions for highly regarded journals or publications, or chaired prominent evaluation committees for reputable conferences.

⁸ While we discuss a sampling of the letters of support, we have reviewed and considered each one.

⁹ [redacted] further indicated that he has cited to the Beneficiary's work in his own published research, but he did not sufficiently detail in what ways the Beneficiary's findings have advanced the state of research in the academic field or explain how the Beneficiary's work has affected the wider field beyond the teams of researchers who have directly cited to her articles. 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 her academic area.

outstanding. Similarly, [redacted] assistant professor at [redacted] University, indicated that the Beneficiary “developed several [redacted] complexes as [redacted] and “new [redacted] to improve the [redacted] conversion efficiency,” but he did not provide specific examples indicating that the Beneficiary’s work has affected the field of chemistry in a substantial way that signifies international recognition or outstanding achievement in the academic field.

Furthermore, regarding the Beneficiary’s work for [redacted] [redacted] principal scientist with [redacted] asserted that the Beneficiary “discovered that the residual [redacted] in the solvent [redacted] is the key driver of inconsistent impurity levels because of the [redacted] drug degradation in solution.” He also indicated that the Beneficiary “played an important role in developing new methods for process impurities for one of our biologic drugs at the clinical stage.” The Petitioner, however, has not established the level or scope of individual recognition the Beneficiary has received as a result of these drug safety contributions, and the evidence does not support a determination that helping to improve [redacted] internal drug impurity detection processes is sufficient to set the Beneficiary apart as outstanding from others in the field. While the Beneficiary’s work has helped her company ensure the safety of its pharmaceutical products, the evidence does not show that her work has affected the academic field beyond [redacted] and its drug manufacturing and development operations, or has otherwise influenced the field at a level rendering her internationally recognized as outstanding.

The Petitioner contends that it provided reference letters from leading researchers in the field from the United States, Canada, and China. The expert testimonials offered by the Petitioner, however, 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 references she selected, as substantially influential or otherwise indicative of international recognition.

The Petitioner also maintains that the Beneficiary’s publication of eight scholarly research articles shows that she is internationally recognized as outstanding. 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 her work has had on the field and whether her articles demonstrate that she is internationally recognized as outstanding in the academic field.¹⁰ The Petitioner submitted the Beneficiary’s July 2020 Google Scholar profile showing that eight of her research articles had received 139 cumulative citations. This Google Scholar information also indicated that the Beneficiary’s four highest cited articles, entitled [redacted]

(2013), [redacted] (2015), [redacted] (2009), and [redacted] (2010)

each received 42, 23, 22, and 20 citations, respectively. The Beneficiary’s remaining four articles each received 18, 7, 4, and 3 citations, respectively. The Petitioner did not specify how many citations

¹⁰ See 6 USCIS Policy Manual, *supra*, at F.3(B)(1) (stating that a beneficiary’s authorship of books or articles should be evaluated to determine whether they were indicative of the beneficiary being recognized internationally as outstanding in a specific academic area).

for each of these individual articles were self-citations by the Beneficiary or her coauthors. Regardless, without comparative statistical evidence indicating how often others in the Beneficiary's field are cited, the Petitioner has not demonstrated that the number of citations received by her publications represents interest at a level consistent with outstanding achievement in the academic field.

Additionally, the Petitioner submitted examples of multiple research articles, including international articles, which cited to the Beneficiary's work.¹¹ For instance, an article authored by Kumar et.al., entitled "Adapting Ruthenium Sensitizers [redacted] Systems," cites to the Beneficiary and [redacted] paper, entitled [redacted]. The article's authors identified the Beneficiary and [redacted] paper as one of multiple studies which reported using [redacted]. This article, however, does not distinguish or highlight the Beneficiary's work from the 30 other papers referenced in the article.

Another article published by Kessinger et al., entitled "Improving the Efficiency of the Mn^{2+/3+} Couple in Quantum Dot Solar Cells: The Role of Spin Crossover" cites to the Beneficiary and [redacted] two papers, entitled [redacted] and [redacted]. The authors referenced the aforementioned two papers stating:

Ferrocene is a classic example of a [redacted] mediator in this category and, indeed, exhibits near-quantitative regeneration efficiency. Additionally, [redacted] has pioneered work in this area with the development of [redacted] and [redacted]. The typical downfall to this approach is that recombination to the oxidized form of these mediators from the TiO₂ conduction band is rapid, which results in decreased η_{cc} .

This article does not differentiate either of the Beneficiary's two papers from the 61 other papers referenced in the article or otherwise demonstrate that her work is outstanding. The Petitioner has not established how citations of this kind translate into international recognition or outstanding achievement. The remaining articles generally discuss the cited source articles in similar terms and there is no special emphasis on the Beneficiary's work. The submitted articles acknowledge her research contributions to the advancement of what appears to be an active field of research but are not indications that the Beneficiary has been recognized internationally as outstanding in the academic field.

While the Beneficiary's citations, both individually and collectively, show that the field has taken some notice of her work, the Petitioner has not established that the number of citations received by her published and presented work is sufficient to demonstrate a level of attention commensurate with being recognized internationally in her field. See section 203(b)(1)(B)(i) of the Act. Nor has the Petitioner shown that the number of citations to the Beneficiary's work represents interest at a level consistent with outstanding achievement in the academic field.

¹¹ These articles which cite to the Beneficiary's work are primarily about the authors' own research, and not the Beneficiary's work. As such, they do not constitute published material about the Beneficiary's work. See 8 C.F.R. § 204.5(i)(3)(i)(C).

The record also includes documentation indicating that the Beneficiary presented her work at the [REDACTED] (2013), the [REDACTED] (2012), and the [REDACTED] (2014). The Petitioner did not, for example, provide evidence from the specific organizations that invited the Beneficiary to participate indicating that they reserve their invitations for researchers who are recognized internationally as outstanding in the academic field. The Beneficiary's participation in two conferences and a seminar demonstrates that her research findings were shared with others in her field, but without documenting the impact of her presented research, such participation is not sufficient to show that her work is recognized internationally as outstanding in the academic field.

Although the evidence indicates that the Beneficiary is a skilled chemistry researcher, the Petitioner has not established that she stands apart in the academic field through outstanding achievement and international recognition. After consideration of the totality of the evidence of the Beneficiary's work in the areas of analytical, inorganic, and material chemistry, including evidence of her research articles, citations to those articles by others in the field, her peer review service, and the opinions of experts in the field, we conclude that this documentation does not sufficiently establish that she has been internationally recognized as an outstanding researcher in the field.

B. Whether the Petitioner Employs at Least Three Persons Full-Time in Research Positions

Based on information contained in the Petitioner's Form 10-K annual report, we agree with the Petitioner that the record adequately demonstrates that it employs at least three persons full-time in research positions.

III. CONCLUSION

The Petitioner has shown that it employs at least three persons full-time in research positions. *See* 8 C.F.R. 204.5(i)(3)(iv). In addition, the evidence demonstrates that the Beneficiary meets at least two of the evidentiary criteria at 8 C.F.R. § 204.5(i)(3)(i), and thus the initial evidence requirements for this classification. A review of the totality of the evidence, however, does not establish that the Beneficiary is internationally recognized as an outstanding professor or researcher in the 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.