



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

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

In Re: 25463040

Date: MAY 2, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a developer and manufacturer of pharmaceuticals, 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 individuals who are internationally recognized as outstanding in their academic field.

The Director of the Nebraska Service Center denied the petition, concluding that while the Petitioner met the initial evidence requirements for this classification, the record did not establish that the Beneficiary is internationally recognized as outstanding in her academic field. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). 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 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).

In addition, 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 Petitioner seeks to employ the Beneficiary as its Director of Analytical Chemistry. In his decision, the Director determined that the Beneficiary met three of the evidentiary criteria under 8 C.F.R. § 204.5(i)(3)(i), relating to her participation as a judge of the work of others, original scientific research contributions, and authorship of scholarly articles in her academic field. However, after reviewing the totality of the record in a final merits determination, he concluded that the record did not show that the Beneficiary is recognized as an outstanding researcher in her field of analytical chemistry.

On appeal, the Petitioner addresses several aspects of the submitted evidence and asserts that their totality is sufficient to meet the high standard for this classification. It also asserts that the Director did not consider one of the expert letters it submitted, and did not properly analyze the number of citations to the Beneficiary's published work by other researchers.

The Petitioner first addresses the issue of the Beneficiary's service as a peer reviewer and editorial board member. It asserts on appeal that she serves as a "key editorial board member" for the journal *Medicine Research*, and that serving on an editorial board is more prestigious and influential than serving as a peer reviewer. Specifically, it refers to the letter from this journal's founding editor, who indicates that in addition to reviewing papers for the journal, the Beneficiary's responsibilities include focusing on "the orientation of the journal, guiding the publishing unit and introducing the latest pharmaceutical research to the readers." However, this vague description of her editorial duties is not supported by documentary evidence of her activities as a member of the editorial board. Depending on the specificity, detail, and credibility of a letter, USCIS may give the document more or less persuasive weight in a proceeding. The Board of Immigration Appeals (the Board) 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 Board 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). Here, the documentary evidence of the Beneficiary's activities for *Medicine Research* consists of an additional letter confirming her review of four articles for the journal, three emails inviting her to review articles submitted to the journal, and a copy of her review for one of those articles. The record therefore does not sufficiently show that she has acted in an editorial capacity for this journal.

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

In addition, the record contains little evidence about *Medicine Research* beyond the letters written by its founding editor. While the Beneficiary's participation in the peer review process has been documented and thus meets the evidentiary criterion, our evaluation in the final merits analysis considers whether this participation is indicative of recognition as outstanding at the international level. See generally 6 USCIS Policy Manual F.3(B)(1), www.uscis.gov/policy-manual. Here, the minimal evidence regarding the prestige or recognition of the journals for which she served as a reviewer does not indicate that this activity has contributed to the Beneficiary's recognition within her field.²

The Petitioner next turns to the evidence of the Beneficiary's original contributions to her field, focusing on five reference or expert letters in the record as well as evidence of the citation to her published work by other researchers. [REDACTED] President of a laboratory testing company that employed the Beneficiary beginning in 2014, explains that he can only comment on her research publications "from a distance," but briefly describes the importance of these areas of research without providing details regarding the significance of her contributions.

Another letter was written by [REDACTED], an organic chemist who writes that he has not collaborated with the Beneficiary, but nevertheless describes her 2005 doctoral research as "important for the understanding of the thermal behavior of Lithium and Boron ions dissolved in natural waters." Similarly, [REDACTED] of the [REDACTED] Institute of Organic Chemistry focuses on the Beneficiary's research on the extraction of rare metals, concluding that her methodology "represents an extremely important contribution to the field of the rare metals separation and determination." However, the Beneficiary's academic field is analytical chemistry, and the record does not show that rare metals separation and determination is a body of specialized knowledge offered for study at an institution of higher education. These letters help to verify the Beneficiary's contribution, but do not show that it led to her recognition as outstanding in the field of analytical chemistry.

The record also includes a letter from [REDACTED] a scientist at a major pharmaceutical company who describes himself as an independent expert. As with most of the other letters, he focuses on the Beneficiary's method for the separation of gallium, indium, and thallium, which he states permits rapid and precise individual separation of these rare metals and "is an original and very significant contribution to our research field." But like those other experts, [REDACTED] does not provide a detailed explanation of why he feels that this method is very significant, and offers the conclusory statement that she "is well recognized as outstanding by scientists in pharmaceutical industry and analytical chemistry."

The Petitioner additionally refers to the number of citations to the Beneficiary's work published in *Talanta* in 2003, which had been cited by other researchers on 80 occasions at the time of its response to the Director's RFE. As it did in that RFE response, the Petitioner refers to an article on the website of the well-known journal *Nature*, which it asserts states that published papers that receive at least 100 citations are in the top 1.8% by that measure. We first note that that article does not appear in the record. Further, the Petitioner does not explain how a comparison of total citations of published work in all fields and over an unspecified period of time is relevant to whether the Beneficiary's work has

² The record also included evidence of one article the Beneficiary reviewed for a different journal, *General Chemistry*.

been recognized as outstanding in her field of analytical chemistry. Although we recognize that citation rate and total citations to a researcher's work are relevant considerations under the criterion at 8 C.F.R. § 204.5(i)(3)(i)(E) as well as in the final merits determination, here the Petitioner has not submitted sufficient evidence to establish that the number of citations to the Beneficiary's work, to this paper and to the totality of her work, shows that she has been internationally recognized as outstanding in her academic field.

Lastly, the Petitioner asserts that the publication of the Beneficiary's work in highly ranked journals, and her presentations at conferences, demonstrates that she is recognized as outstanding in the field of analytical chemistry. While the Petitioner consistently uses the plural "journals," the record contains evidence pertaining to the ranking of only one of the journals in which the Beneficiary published a single paper, *Talanta*. The impact factor or prestige of the journals in which a researcher has been published is another factor that may contribute to their international recognition as outstanding, but in the Beneficiary's case the record does not demonstrate that her record of publication has garnered her that level of recognition. Likewise, the Petitioner has not shown that the Beneficiary's service as a session chair at a single conference in 2020 is indicative of international recognition. While the Petitioner also submitted copies of emails inviting the Beneficiary to present at several other conferences, some of the conferences do not appear to focus on her academic field of analytical chemistry. In addition, there is no evidence that she actually attended any of these conferences.

The record shows that the Beneficiary has contributed to the field of analytical chemistry through her original research published in scientific journals, as well as through her service as a peer reviewer. Several reference letters describe her research and its impact on the field, while others highlight her contribution to her employers. After consideration of the totality of this evidence, which also includes information about the journals in which her work has been published and her citation history, we conclude that it does not establish that she is internationally recognized as an outstanding researcher in her academic field.

ORDER: The appeal is dismissed.