MATTER OF YEN

In Visa Petition Proceedings

A-12572634

Decided by District Director February 21, 1966

Since a geneticist is a member of the professions within the meaning of section 101(a)(32), Immigration and Nationality Act, as amended by P.L. 89-236, a visa petition is approved to accord beneficiary, a qualified geneticist, preference classification under section 203(a)(3) of the Act.

The beneficiary is a 28-year-old citizen of China who is presently in the United States. The petitioner seeks to classify the beneficiary as a preference immigrant under section 203(a)(3) of the Immigration and Nationality Act, as amended by the Act of October 3, 1965 (Public Law 89-236). That section provides that preference classification thereunder may be given "to qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States."

Section 101(a)(32) of the Act, as amended, provides that: "The term 'profession' shall include but not be limited to architects, engineers, lawyers, physicians, and teachers in elementary or secondary schools, colleges, academies, or seminaries."

Section 204(a) of the Act, as amended, provides that ". . . any alien desiring to be classified as a preference immigrant under section 203(a)(3) (or any person on behalf of such an alien) . . . may file a petition with the Attorney General for such classification." It should be noted that, while the beneficiary is presently employed by the petitioner, an employer-employee relationship is not required between the petitioner and the beneficiary. Under the provisions of section 204(a), *supra*, the beneficiary could have elected to file the visa petition in his own behalf.

Under the provisions of sections 204.1(c) and 204.2(f), Title 8, Code of Federal Regulations, there must be submitted with the

petition Form ES-575A, Application for Alien Employment Certification, executed in accordance with the instructions for the completion of that form and accompanied by evidence of the beneficiary's qualifications as specified in those instructions. The petitioner has complied with that requirement. The Form ES-575A and accompanying evidence, showing that the beneficiary had completed all the requirements for a doctor of philosophy degree in biochemical genetics in November 1965 and will receive that degree from the University of North Carolina in June 1966, and that he had been employed as a geneticist by the petitioner since December 1965, were forwarded by the office to the Bureau of Employment Security, Department of Labor. That Department has returned the evidence and the Form ES-575A endorsed to show that the certification required by section 212(a)(14) of the Immigration and Nationality Act, as amended by Public Law 89-236, has been issued. The certification is to the effect that there is a shortage of persons in the United States available to perform the services for which the beneficiary is qualified, and that the beneficiary's employment in his vocation will not adversely affect the wages and working conditions of persons similarly employed in this country.

The beneficiary's vocation, that of a geneticist, is not specifically named in section 101(a)(32) of the Act as a profession. In determining whether that vocation may be considered as a profession, reference has been made to the *Dictionary of Occupational Titles* 1965, Volume I, Definition of Titles, Third Edition, published by the United States Department of Labor. The vocation "geneticist" is defined therein at page 331 as follows: "Studies inheritance and variation of characteristics in all forms of life: Performs experiments to determine laws, mechanisms, and environmental factors in origin, transmission and development of inherited traits: Analyses determinants responsible for specific inherited traits, such as color differences, disease resistance, and size to improve strength, rate of maturity, fertility, and other desirable traits. Devises methods for altering or producing new traits, making use of chemicals, heat, light, and other means."

Volume II of the above publication lists the vocation of "geneticist" as an occupation within the biological sciences engaged in scientific research and indicates, at page 466, that "A bachelor's degree with a major in the specialty area is the minimum requirement for entrance into the field, with graduate degrees needed for more responsible research work and teaching. A master's degree usually qualifies an individual for a position in applied research and for a laboratory teaching position in a college, university, or in-

dustrial research setting. A Ph. D. is generally required for a position in basic research and more advanced entry positions."

The high degree of education required for entry into this scientific field, as comparable to the degree of education required for the specific professions named in section 101(a)(32), *supra*. Accordingly, it is concluded that the applicant is a qualified member of the professions. He is, and intends to continue, in the field of genetics. The certification of the Secretary of Labor required by section 212 (a)(14) of the Act, as amended, has been issued.

It is ordered that the petition be and is hereby approved.