



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

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

MATTER OF A-C-

DATE: APR. 25, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a computer scientist, seeks classification as an individual of extraordinary ability in the sciences. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director, Texas Service Center, denied the petition. The Director concluded that the Petitioner did not submit the necessary documentation to meet at least three initial evidence criteria.

The matter is now before us on appeal. In his appeal, the Petitioner submits additional items and a brief. He indicates that he has satisfied at least three initial evidence criteria and shown that he has extraordinary ability as a computer scientist.

Upon *de novo* review, we will sustain the appeal.

I. LAW

Section 203(b) of the Act states in pertinent part:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if –

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS*, 772 F.Supp.2d 1339 (W.D. Wash. 2011) (affirming our proper application of *Kazarian*), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013) (finding that we appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true").

II. ANALYSIS

The Director found the Petitioner did not submit the necessary initial evidence because he satisfied two, but not three criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). Considering the new material the Petitioner presents on appeal, he has now provided initial documentation meeting at least three of the criteria. In addition, he has demonstrated extraordinary ability in a final merits determination by showing he is one of the small percentage who has risen to the very top of the field of endeavor.

A. Evidentiary Criteria

The Director found the Petitioner provided evidence of (1) his participation as a judge of the work of others in the field, as well as (2) his authorship of scholarly articles in the field. 8 C.F.R. § 204.5(h)(3)(iv), (vi). The record supports this conclusion. Specifically, it contains documentation showing the Petitioner peer-reviewed articles published in conference proceedings and authored 13 articles that appeared in scholarly publications.

On appeal, the Petitioner states he has provided documentation that meets other criteria, including evidence showing he has commanded a high salary or other remuneration for services, in relation to others in the field. *See* 8 C.F.R. § 204.5(h)(3)(iv). Specifically, the Petitioner submits information

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from the U.S. Department of Labor's Online Wage Library indicating that Level 4 Computer and Information Research Scientists make \$120,016 per year.¹ The Petitioner's Forms W-2 reflect that, while working at [REDACTED], he received compensation in the amounts of \$238,730.83 in 2014, \$235,000.02 in 2013, and \$220,000.02 in 2012. This most recent salary is nearly double the U.S. Department of Labor's estimate for others in the field.

Upon review, we agree with the Petitioner that these submissions show he has received a high salary in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(iv). These documents therefore meet the plain language of the regulation and the Petitioner satisfies this criterion. As a result, the Petitioner has provided initial evidence sufficient to meet at least three of the regulatory criteria.

B. Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will conduct a final merits determination that considers the entire record in the context of whether or not the Petitioner has demonstrated extraordinary ability as a computer scientist by corroborating that he enjoys a level of expertise indicating he is one of a small percentage who have risen to the very top of the field of endeavor. Section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Based on the filings, the Petitioner has made the requisite showing.

In 2001, the Petitioner obtained a Bachelor's degree with honors in Computer Science and Engineering from the [REDACTED] in India. The Petitioner received a Ph.D. in Computer Science from the [REDACTED] in 2007. Since completing his education, the Petitioner has worked for a series of investment management companies and investment banks, including [REDACTED]. Since October of 2011, he has had the title of Senior Principle Developer at [REDACTED].

Prior to leaving academia, the Petitioner authored thirteen scholarly papers published in conference proceedings and academic journals. A Google Scholar print-out lists the number of citations to his articles to be 574 at the time of this petition's initial submission, with two articles having garnered over 100 citations each.² While we consider all evidence offered regarding the Petitioner's ability in the field, this level of citation indicates an interest in the Petitioner's activities consistent with someone who has reached the top of the field.

Most of the Petitioner's articles appear in conference proceedings, such as those associated with the [REDACTED] the [REDACTED] the [REDACTED]

¹ In addition, according to the Bureau of Labor Statistics, the 90th percentile wage for this occupation is \$170,610. *See* www.bls.gov/oes/current/oes151111.htm.

² While the Petitioner must demonstrate eligibility at the time of filing, we note that the updated Google Scholar print-out the Petitioner submits on appeal shows the number of citations to the Petitioner's articles had increased to 621 by May of 2015.

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_____ and the _____. He provided a special insert from the _____ explaining that, unique to computer scientists and engineering faculty, publication in conference proceedings is preferred over publication in journals in his field due to “the shorter time to print (7 months vs 1-2 years), the opportunity to describe the work before one’s peers at a public presentation, and the more complete level of review (4-5 evaluations per paper compared to 2-3 for an archival journal).” The import of these contributions is reinforced by documentation showing that others in the field contacted the Petitioner as they were interested in obtaining his work. He submitted copies of emails from Ph.D. students and computer scientists requesting for access to a tool the Petitioner developed. These emails were followed by the creation of a website for the tool so that others may find and access it. Finally, the Petitioner’s presentations included in the proceedings of these conferences have garnered significant citation.

The Petitioner has judged others in the field through peer review of articles. He provided documentation showing his review of papers for conference proceedings such as _____ as well as for the journal, _____. Correspondence from editors indicates that the Petitioner’s work as peer-reviewer is prized for the quality of his review and his instructive insights.

Since October 2011, the Petitioner has worked at _____, a subsidiary of _____ an Asia-based financial services group founded in Japan in _____. As noted above, the U.S. Department of Labor estimates the compensation of Level 4 Computer Scientists to be \$120,016 per year. In 2014, the Petitioner received \$238,730.83 through his position as a Senior Developer at _____. This amount of nearly double the estimated salary for someone in his position supports the Petitioner’s position that he is one of the small percentage of those in the very top of the field of endeavor.

Regarding the substance of the Petitioner’s work at _____, he submitted a reference letter³ from _____ his direct supervisor and Executive Director of the _____. In his letter, _____ stated that the Petitioner led the mortgage-backed securities analytics service, an important platform that the company’s trading desk in _____ uses each day to calculate the market value and risk numbers. He also noted the Petitioner’s experience as the lead developer on a proprietary risk management system known as _____. _____ explained how _____ plays an integral part in the _____ trading desk and confirmed that Petitioner’s improvements resulted in a reduction in the time necessary to run the application from over 40 minutes to under 2 minutes. _____ wrote that the Petitioner’s system freed up over \$90 million of risk capital, in addition to the savings acquired through no longer having to pay licensing fees of \$1 million per quarter for the previous system. _____ provided several other examples the Petitioner’s work, indicating the substantive impact the Petitioner has had by creating programs that are less expensive, more efficient, and more accurate than previously used models.

³ We have considered all reference letters in the record, but discuss only a sampling in this decision.

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The Petitioner also provided a letter from [REDACTED] Software & Systems Engineering Chair at the Department of Software & Systems Engineering, [REDACTED] met the Petitioner at an [REDACTED] which the Petitioner attended in 2004. [REDACTED] stated that the Petitioner participated in the event as one of eighty applicants selected from around the world. In addition, he described the Petitioner's contributions to the field made through published papers, and explained how the research he and colleagues are doing today expands on the achievements the Petitioner made over ten years ago.

Similarly, [REDACTED] a professor at the [REDACTED] wrote a letter in which he stated that he found the Petitioner's research to be "very interesting, useful, and valuable, both for its theoretical content as well as its practical ability." He then identified how concepts covered in the Petitioner's articles have been useful and influential for his own studies on related topics. For several of the Petitioner's papers, he explained why the findings presented were unique or important in the field.

In summary, the Petitioner has shown through extensive citation, substantive peer-review, high salary, and continued achievements in private sector applications that he is one of that small percentage of those who have risen to the very top of his field. For the reasons enumerated above, we find that the Petitioner has demonstrated extraordinary ability in computer science.

III. CONCLUSION

The Petitioner has shown his extraordinary ability by satisfying at least three regulatory criteria, as well as demonstrating a level of expertise consistent with one of that small percentage who have risen to the very top of the field of endeavor. Section 203(b)(1)(A)(i) of the Act. The Petitioner has established that he seeks to enter the United States to continue to work in his area of extraordinary ability. Section 203(b)(1)(A)(ii) of the Act. By confirming this intent, and there being no indication otherwise, we are satisfied that the Petitioner's entry will substantially benefit prospectively the United States. Section 203(b)(1)(A)(iii) of the Act. Therefore, the Petitioner has met the burden of proof necessary to establish eligibility for the benefit sought. Sections 203(b)(1)(A), 291 of the Act.

ORDER: The appeal is sustained.

Cite as *Matter of A-C-*, ID# 16153 (AAO Apr. 25, 2016)