



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

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

MATTER OF C-T-

DATE: DEC. 22, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a mathematics professor, seeks classification as an individual of extraordinary ability in education. *See* Immigration and Nationality Act (the Act) section 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 of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only one of the ten initial evidentiary criteria, of which she must meet at least three.

On appeal, the Petitioner contends that she meets at least three of the ten criteria.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is a major,

internationally recognized award). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, memberships, and published material in certain media). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to his or her occupation.

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle 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.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner states that she has served “as a full-time professor of mathematics at Southwest campus of the [REDACTED] since the Fall of 2015.” As she has not indicated or established that she has received a major, internationally recognized award, the Petitioner must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner met only the authorship of scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi).¹ On appeal, the Petitioner contests the Director’s findings regarding three criteria: nationally or internationally recognized awards at 8 C.F.R. § 204.5(h)(3)(i), original contributions of major significance at 8 C.F.R. § 204.5(h)(3)(v), and critical role for distinguished organizations at 8 C.F.R. § 204.5(h)(3)(viii).² For the reasons discussed below, the record does not support a finding that the Petitioner satisfies at least three criteria.

Documentation of the alien’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner submitted a certificate indicating that she received a [REDACTED] [REDACTED] (2002) in recognition of her “superior academic achievement.” In her appeal statement, she asserts that this certificate is “an important scholarly

¹ For example, the record includes an article the Petitioner authored in [REDACTED]. This evidence supports the Director’s finding that the Petitioner satisfies the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(vi).

² The Petitioner previously claimed eligibility for the high salary criterion at 8 C.F.R. § 204.5(h)(3)(ix), which we will also address in our decision.

award in a STEM [Science Technology Engineering Mathematics] field” and that only a few students receive this award each year. The record, however, does not include sufficient evidence to demonstrate that this student scholarship is a nationally or internationally recognized prize or award for excellence in her field.

In addition, the Petitioner provided a certificate from [REDACTED] stating that she completed course “[REDACTED]” (2016). She also offered three certificates from her alma mater, the [REDACTED] for completing its [REDACTED] and [REDACTED] graduate student certification programs in 2011. The aforementioned certificates reflect completion of graduate student and professional development training at the Petitioner’s university and college rather than her receipt of nationally or internationally recognized awards for excellence in the field. She has not established therefore that she meets this regulatory criterion.

Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner submitted her Ph.D. dissertation, publications, and presentations; citation evidence for her published work; and a letter of recommendation from [REDACTED] a professor of economics at [REDACTED]. The Director acknowledged the Petitioner’s submission of this evidence, but found that it was not sufficient to demonstrate that her work constituted original contributions of major significance in the field. For the reasons discussed below, we agree with that determination.

With respect to the Petitioner’s published work, the regulations contain a separate and distinct criterion concerning the authorship of scholarly articles in professional publications at 8 C.F.R. § 204.5(h)(3)(vi), a category that she has already satisfied. In *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), the court held that publications and presentations are not sufficient evidence under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of “major significance” in the field. In 2010, the *Kazarian* court reaffirmed its holding that we did not abuse its discretion in finding that the petitioner had not demonstrated contributions of major significance. 596 F.3d at 1122. Furthermore, there is no presumption that every published article or conference presentation is a contribution of major significance in the field; rather, the petitioner must document the actual impact of her article or presentation.

As one type of evidence of the impact of her work, the Petitioner provides a [REDACTED] 2017 [REDACTED] citation report indicating that her 2009 article entitled “[REDACTED]” was “cited by 6.”³ This report does not show any further cites to her remaining publications. Generally, citations can confirm that the field has taken interest in a scholar’s work. In this case, the Petitioner has not demonstrated that the citations to her work, considered both individually and collectively, are commensurate with contributions “of major significance in the field.”

³ The record reflects that three of these citations were self-cites by the Petitioner or her coauthor, [REDACTED].

In addition, as another form of evidence under this criterion, the record includes a letter from [REDACTED] discussing the Petitioner's unique skills, academic success, and devotion to her students at [REDACTED]. [REDACTED] notes that the Petitioner is working on an "unpublished" project involving "a Chemical alphabet developed using genetics, which will then be used to convert her self-composed poems written in multiple languages, into musical pieces." The evidence, however, does not show that the Petitioner's work has substantially influenced her field or otherwise rises to the level of original contributions of major significance in mathematics.

The Petitioner explains on appeal that her current research involves studying "the connections between Mathematics, poetry, music and genetics." She states: "I invented a chemical alphabet, by using Mathematics and Genetics, which I use in order to convert my published poetry into DNA sequences, then into classical music pieces." The Petitioner further indicates that this project offers a cross-curricular teaching method for helping students "to better understand some algebraic concepts" and to improve their problem solving and communication skills. The record, however, does not indicate that her instructional method has affected the field in a major way, that her approach has been widely utilized, or that her work otherwise represents a contribution of major significance in the field. Without sufficient evidence demonstrating that her work constitutes original contributions of major significance, the Petitioner has not established that she meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner contends that she has performed in a leading or critical role as "a full-time Instructor of Mathematics" at [REDACTED]. She asserts that her completion of "[REDACTED]" certifies her to teach online STEM courses and demonstrates her critical role as an educator. In addition, the Petitioner notes that she has received favorable evaluations from her students and that many of them have "transferred to four year universities," which also demonstrate her critical role. She further maintains that [REDACTED] is a "prestigious" college and "one of the [REDACTED] community college[s] in the country."

In general, a leading role is evidenced from the role itself, while a critical role is one in which an individual was responsible for the success or standing of the organization. The Petitioner did not provide an organizational chart or other similar evidence to establish where her role fit within the overall hierarchy of [REDACTED]. The submitted documentation does not differentiate the Petitioner from other [REDACTED] faculty so as to demonstrate her leading role, and does not establish that her course instruction has contributed to the college in a way that was of substantial importance to its success or standing. Furthermore, the record does not include sufficient documentary evidence showing that [REDACTED] has a distinguished reputation relative to other colleges and universities in the United States. For these reasons, the Petitioner has not established that she meets this regulatory criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

While the Petitioner previously claimed eligibility for this criterion, she does not continue to do so on appeal, nor does the record support a finding that she meets it. The Petitioner initially submitted a letter from [REDACTED] Human Resources stating that she was “currently on Faculty Salary Plan: FAB; Grade: F12; Step 8. Annualized Salary: \$64,863.00.” The Director found that the Petitioner’s employment contract and [REDACTED] faculty pay scale did not show that she “has commanded a high salary or other significantly high remuneration for her services as a professor working in the field of mathematics.”⁴ According to the [REDACTED] faculty pay scale, there are 20 steps above the Petitioner’s step 8 pay level. The Petitioner’s salary is substantially below the “Max Step 28” level, and therefore does not show that she earns a high salary relative to other faculty at [REDACTED]. For example, the Max Step 28 salary ranges from \$75,677 to \$96,383. Regardless, as the salary information provided is limited to faculty at the Petitioner’s college, it is not sufficient to show that she has received a high salary “in relation to others in the field.” Accordingly, the Petitioner has not established that she meets this criterion.

III. CONCLUSION

The Petitioner is not eligible because she has not submitted the required initial evidence of either a qualifying one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought.

ORDER: The appeal is dismissed.

Cite as *Matter of C-T-*, ID# 832996 (AAO Dec. 22, 2017)

⁴ After discussing the relevant evidence and the basis for the Petitioner’s ineligibility under this criterion, the Director’s decision erroneously stated that the Petitioner’s documentation “meets this criterion.” Despite this clear typographical error, the Director’s analysis on the issue is otherwise sound.