



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

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

MATTER OF Y-L-

DATE: FEB. 27, 2017

APPEAL OF NEBRASKA 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 the sciences. *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, Nebraska Service Center, denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the initial evidentiary criteria, of which he must meet at least three.

The matter is now before us on appeal. With his appeal, the Petitioner submits a brief and additional evidence. The Petitioner contends that he meets the original contributions criterion and possesses the required level of expertise for this classification.

Upon *de novo* review, we will dismiss 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,

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- (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 that 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) (including items such as awards, published material in certain media, and scholarly articles).

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 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), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *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 U.S. Citizenship and Immigration Services (USCIS) examines "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"). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of 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.

## II. ANALYSIS

At the time of filing, the Petitioner was working as a visiting assistant professor of mathematics at [REDACTED]. The Petitioner's current résumé also identifies him as an instructor of mathematics at the [REDACTED], an assistant professor of mathematics at [REDACTED], and a visiting assistant professor at [REDACTED]. As the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). In denying the Petition, the Director found that that the Petitioner met the judging criterion under 8 C.F.R. § 204.5(h)(3)(iv) and the scholarly articles criterion under 8 C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner maintains that he also meets the original contributions criterion under 8 C.F.R.

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§ 204.5(h)(3)(v).<sup>1</sup> We have reviewed all of the evidence in the record of proceedings, and it does not support a finding that the Petitioner meets the plain language requirements of at least three criteria.

A. Evidentiary Criteria

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).*

The record contains evidence reflecting that the Petitioner has reviewed articles for scientific journals such as [REDACTED] and [REDACTED]. Accordingly, the Director found that the Petitioner met this criterion, and we agree with that determination.

*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 his publications and presentations, citation evidence for his published work, and letters of recommendation from colleagues. The Director acknowledged the Petitioner's submission of the preceding evidence, but found that it was not sufficient to demonstrate that the Petitioner's work constituted original contributions of major significance in the field.

On appeal, the Petitioner indicates that he has "authored at least 14 highly influential scholarly peer-reviewed articles in high-ranking journals." With respect to the Petitioner's published work, the regulations contain a separate criterion concerning the authorship of scholarly articles in professional publications. 8 C.F.R. § 204.5(h)(3)(vi). 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 his article or presentation.

As one type of evidence of the impact of his work, the Petitioner's appeal includes an August 2016 [REDACTED] citation summary stating that his 2011 article entitled "[REDACTED]" in [REDACTED]

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<sup>1</sup> Although he initially offered documentation of his funding grants and student awards, the Petitioner's appeal does not contest the Director's finding regarding the awards criterion under 8 C.F.R. § 204.5(h)(3)(i), nor does the record support a finding that he meets it. Accordingly, we will not address this criterion in our decision.

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\_\_\_\_\_ was \_\_\_\_\_. Regarding the remaining articles the Petitioner has authored, he previously provided \_\_\_\_\_ search results indicating ten or less citations for each.

The Petitioner maintains that he “has a very high citation number compared to many other researchers in the field.” In support of his statement, he offers reports entitled ‘\_\_\_\_\_ and \_\_\_\_\_ (2007). The first report reflects that two of the Petitioner’s mathematics articles in \_\_\_\_\_ were cited at a level placing them among the top \_\_\_\_\_ percent of papers in their year of publication (2011). While the second report shows that articles in the field of mathematics have lower citation averages relative to articles in other scientific fields, its data does not indicate that any of the Petitioner’s articles published from 2000 – 2010 had significant citation rates. The third report analyzed mathematics articles published during the years 2003 – 2006.<sup>3</sup> The record, however, does not include documentation showing that the Petitioner published any articles in that period. Regardless, the submitted reports do not establish that any of the Petitioner’s original mathematics findings rise to the level of contributions of major significance in the field.

Generally, citations can confirm that the field has taken interest in a researcher’s work. The Petitioner provided several examples of articles that cited to his work; however the articles do not reflect that his work was singled out as particularly important. Rather, the Petitioner’s findings were utilized as background information to the authors’ papers. In this case, the Petitioner has not demonstrated that the citations to his work, considered both individually and collectively, are commensurate with contributions “of major significance in the field.”

As another form of evidence under this criterion, the Petitioner contends that that a number of experts have offered testimony regarding his contributions of major significance. For example, \_\_\_\_\_ an associate professor in the Department of Computer Science at the \_\_\_\_\_ mentioned a study by the Petitioner in \_\_\_\_\_ “in which [the Petitioner] applied the rope length of links and knots to enzyme action in DNA.” \_\_\_\_\_ noted that the Petitioner’s findings “improved our understanding of DNA types and the enzymology of enzymes,” but did not offer specific examples of how Petitioner’s work has affected the biomedical industry or mathematics field, or has otherwise been of major significance to the field.

With regard to the Petitioner’s study in \_\_\_\_\_ concerning the singular values of random matrices, \_\_\_\_\_ professor of electrical and computer engineering at \_\_\_\_\_ stated that the Petitioner’s “findings in this area are groundbreaking because they may lead to the generation of novel ways to recover images in an efficient way.” The record, however, does not include documentary evidence showing that the Petitioner’s work has

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<sup>2</sup> The record reflects that at least five of the citations were self-cites by the Petitioner. While self-citation is a normal, expected practice, it does not show the extent to which a researcher has influenced others’ work.

<sup>3</sup> For example, the report indicated that from 2003 – 2006 mathematics faculty members at the \_\_\_\_\_ at \_\_\_\_\_ and \_\_\_\_\_ averaged “citations per faculty” of 59.44 and 54.48, respectively.

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already had this effect. Eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). [REDACTED] expectation regarding the possible future impact of the Petitioner's work is not evidence of his eligibility at the time of filing.

[REDACTED] professor in the School of Computer Science at the [REDACTED] indicated that his team of collaborators "cited [the Petitioner's] groundbreaking work in compressed sensing" and that they "consider [his] work very important." Although the Petitioner's work regarding the null space property for sparse recovery from multiple measurement vectors has garnered a moderate number independent citations and added to the pool of knowledge in his field, he has not shown that his approach has affected the field in a major way, that his method has been widely utilized, or that his work otherwise constitutes a contribution of major significance in the field.

In another letter, [REDACTED] a member of the technical staff at [REDACTED] discussed the Petitioner's graduate work at the [REDACTED]. He stated that the Petitioner's work offered "a characterization for the uniqueness of a solution to the multiple measurement vector problem" and that his Ph.D. thesis "contributed to the field to a degree of major significance." While we do not question that the Petitioner's thesis has value, in order for an institution to accept any research for graduation, publication, or funding, it must offer new and useful information to the pool of knowledge. Not every mathematician who performs original research that adds to the pool of knowledge has inherently made a contribution of "major significance" to the field. The record does not show that the Petitioner's thesis has been heavily cited, has substantially influenced the field, or otherwise rises to the level of an original contribution of major significance.

[REDACTED] associate professor of mathematics at [REDACTED] mentioned the Petitioner's work on low rank approximations of linear operators in p-norms and their algorithms. [REDACTED] noted that the Petitioner "developed and provided algorithms for determining solutions to low rank approximation problems" and that his "results can be applied, in particular, to matrix completion and sparse matrix recovery." However, he did not provide specific examples of how the Petitioner's work been widely implemented or otherwise equates to a mathematical contribution of major significance in the field.

The record also contains other recommendation letters from the Petitioner's peers. Although the letters praise his work, they do not explain how the Petitioner's contributions are "of major significance in the field." Instead, the letters reference the importance of the Petitioner's works as indicated by their publication in professional journals and presentation at conferences. As discussed above, the Petitioner has not shown through his citation history or other evidence that his work, once published or presented, has been of major significance in the field. Again, while the selection of the Petitioner's articles in professional journals or at conference proceedings verifies the originality of his work, it does not necessarily reflect that his research is considered of major significance.

Ultimately, letters that repeat the regulatory language but do not explain how a petitioner's contributions have already influenced the field are insufficient to establish original contributions of

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major significance in the field. *Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d at 1115. In 2010, the *Kazarian* court reiterated that the USCIS' conclusion that the "letters from physics professors attesting to [the petitioner's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122. The letters considered above primarily contain attestations of the Petitioner's status in the field without providing specific examples of how those contributions rise to a level consistent with major significance in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). Without supporting evidence, the Petitioner has not met his burden of showing that he has made original contributions of major significance in the field.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.* 8 C.F.R. § 204.5(h)(3)(vi).

The Petitioner documented his authorship of scholarly articles in professional publications such as [REDACTED] and [REDACTED]. Thus, the Director concluded that the Petitioner satisfied this criterion, and the record supports that finding.

#### B. Summary

As explained above, the record only satisfies two of the regulatory criteria. As a result, the Petitioner has not submitted the required initial evidence of either a 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). Had the Petitioner satisfied at least three evidentiary categories, the next step would be a final merits determination that considers all of evidence in the context of whether or not the Petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor," and (2) that the individual "has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the record in the aggregate supports a finding that the Petitioner has not established the level of expertise required for the classification sought.

### III. CONCLUSION

The Petitioner has not demonstrated that he qualifies as an individual of extraordinary ability under section 203(b)(1)(A) of the Act. Accordingly, he has not established eligibility for the immigration benefit sought.

**ORDER:** The appeal is dismissed.

Cite as *Matter of Y-L-*, ID# 267078 (AAO Feb. 27, 2017)