



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

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

MATTER OF M-B-

DATE: JAN. 24, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a petroleum engineer and manager, 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 of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that he meets at least three of the evidentiary criteria necessary to demonstrate national or international acclaim.

On appeal, the Petitioner asserts that he meets several of the requisite criteria.

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

I. LAW

Section 203(b)(1)(A) of the Act describes qualified immigrants for this classification as follows:

- (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 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).

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).¹ 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 has worked for [REDACTED] for many years as a petroleum engineer, asset manager, reservoir engineer, portfolio advisor, petroleum engineering team manager, and applied reservoir manager (ARM). The record contains voluminous information about [REDACTED] and multiple highly technical PowerPoint presentations the Petitioner prepared for [REDACTED]. The Petitioner also offered items relating to the importance of energy independence to the United States and the oil and gas industry to the California economy. While [REDACTED] is a large multinational [REDACTED] company that contributes to the California economy, at issue is whether the Petitioner himself enjoys national or international acclaim. While the Petitioner has satisfied at least three criteria, when considered in the aggregate, that evidence is not indicative of the necessary level of recognition in the field as a whole.

A. Criteria

The Petitioner has met the three criteria we address below. We acknowledge that the record contains considerable evidence beyond what we discuss in this section. In our final merits determination, however, we will consider the entire record, including those exhibits that do not satisfy the criteria for which the Petitioner offered them.

¹ This case discusses 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).

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 Petitioner correctly notes on appeal that we are bound by the plain language requirements of this criterion, and cannot, in the initial stage, look at qualitative issues such as the selection process for the judges. The Petitioner served as a member of [REDACTED]. The objectives included reviewing small capital project decisions, ensuring the utilization of appropriate and consistent processes and techniques to evaluate opportunity, ensuring consistent project lookbacks and implementing lessons learned, and providing feedback to the team on their progress and areas for improvement. The Petitioner's services on the [REDACTED] satisfy this criterion.

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).

While neither the Petitioner nor the Director addressed this criterion, the record contains sufficient evidence to meet it. Specifically, the Petitioner presented his scholarly engineering research at conferences, which appeared in the published proceedings of these events. These published articles meet 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 Director acknowledged that the Petitioner had served in managerial positions for [REDACTED] but concluded that his roles have not been leading or critical to the entire organization. On appeal, the Petitioner maintains that the importance of his role in The Congo is demonstrated by a letter from [REDACTED] an enterprise hiring manager at [REDACTED]. He also contends that, "as the top petroleum engineer, he is essential to [REDACTED] field operations in California's vast [REDACTED]. As support, he references his curriculum vitae. Finally, he maintains that the letters from colleagues corroborate his influence within [REDACTED] and across the global petroleum industry. While many of the letters are vague or focus on the Petitioner's personal character rather than his role for [REDACTED] two of them sufficiently explain the critical nature of the Petitioner's role in The Congo.

[REDACTED] the Congo Country Manager during the Petitioner's time there, discusses in detail his accomplishments. While [REDACTED] inconsistency regarding dates and his use of numerous undefined acronyms makes his letter difficult to follow at times,² he sufficiently describes how the

² He first states that the Petitioner worked directly for him and served on the leadership team in 2007 and 2008, later stating that he stepped in to the asset team leader position for "much of 2008," and finally affirming that he served as acting asset manager from 2006 through 2008. [REDACTED] list of the Petitioner's titles indicates that he was a lead petroleum engineer in 2006 through 2008 and the acting asset manager in 2009.

Petitioner's role was critical to [REDACTED]. For example, he managed the execution of a \$2.7 billion capital project, monitoring the schedule and capital spent. He also filled in for an absent asset team leader, assuming responsibility for that position and performing as the petroleum engineer for all the Congo "[REDACTED]" assets. He was the primary author for business planning, reserves, production, project updates, and compliance documents for all assets in The Congo. The Petitioner's team recommended a growth strategy in The Congo and developed the joint venture relationship, resulting in smoother communication and project execution. [REDACTED] a [REDACTED] employee from 1979 through 2011, confirms that the Petitioner's metering study was "key to achieving an improved position for [REDACTED]". These letters adequately clarify how the Petitioner was critical to [REDACTED] ventures in The Congo.

For all of the above reasons, the Petitioner has satisfied the initial evidentiary requirements by submitting evidence that meets at least three criteria. Next, we consider the record in the aggregate.

B. Final Merits Determination

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. If so, a petitioner has met the requisite burden of proof and established eligibility for visa classification as an individual of "extraordinary ability." See section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); see also *Kazarian*, 596 F.3d at 1119-20.

The Petitioner documented two memberships, in the [REDACTED] and the [REDACTED]. Neither membership meets the requirements set forth at 8 C.F.R. § 204.5(h)(3)(ii), which mandates that the membership is limited to those who demonstrate outstanding achievements. Members in [REDACTED] must work in an area related to the petroleum industry, and either (1) hold a university degree equivalent to a four-year bachelor's degree or higher in engineering or basic or applied science, or (2) a two-year science or engineering degree or a four-year degree in a field other than science or engineering plus six years of active practice in support of the petroleum industry. None of these education or experience requirements represents an outstanding achievement. The [REDACTED] admits corporations, not individuals, and the Petitioner obtained his membership through [REDACTED]. The record suggests that [REDACTED] membership is based on corporate patronage and financial support. The Petitioner has not shown that the [REDACTED] admits individuals based on their outstanding achievements. Regardless, the record does not verify that his affiliation with either of the above entities is indicative of national or international acclaim.

While the memberships by themselves are not indicative of the Petitioner's level of recognition, we will also consider, as part of the final merits determination, his level of involvement in the [REDACTED]. The Petitioner joined the [REDACTED] program of the [REDACTED] Congo section and served on the board for publicity, internet, and as the young professionals focal point. He received an email thanking him for his efforts to rejuvenate [REDACTED] in The Congo and received the [REDACTED].

While the evidence confirms that the Petitioner performed valuable administrative and promotional services for [REDACTED] in The Congo, it does not demonstrate that he enjoys national or international acclaim as a petroleum engineer or is among the small percentage at the top of that field.

The Petitioner's experience as a team leader and with the DRB demonstrates his value to [REDACTED] but does not establish any recognition beyond that company. The Petitioner's performance as a first or second line manager, even for a large multinational corporation, does not reflect national or international acclaim. While [REDACTED] clearly valued his opinion when it selected him for the [REDACTED] once again, a favorable reputation with one's own employer is not indicative of his standing in the field as a whole.

The Petitioner offered his curriculum vitae, reference letters, his performance ratings, employee awards, and internal and industry conference presentations. These exhibits do not corroborate any influence or recognition beyond his employer. At the outset, while the Petitioner specified that his curriculum vitae demonstrates his contributions, we look to whether the record supports his own attestations with independent evidence. [REDACTED] and [REDACTED] detail the Petitioner's projects in The Congo and their importance to [REDACTED] but do not identify how this work influenced the field as a whole. [REDACTED] the ARM for the [REDACTED] at [REDACTED] explains that the Petitioner acted on [REDACTED] behalf for one year, managing a team of more than 50 employees relating to projects that yielded "22 [REDACTED] and 12 [REDACTED] of development and base business opportunities."⁴ These achievements all relate to [REDACTED] itself and do not suggest a wider influence or recognition in the field. The remaining letters are from [REDACTED] employees or acquaintances. They praise the Petitioner's professionalism and character, but do not name any contribution that influenced the oil industry beyond [REDACTED]. Similarly, the Petitioner's performance ratings and awards confirm his value to his employer, but are not indicative of any recognition beyond [REDACTED]. Finally, the Petitioner did not verify that the findings in his internal and industry presentations have been adopted or even considered outside [REDACTED]. While outside experts may have attended his conference presentations, the Petitioner did not document citations or other similar reliance on his studies outside of [REDACTED]. Accordingly, the materials relating to his contributions as a petroleum engineer are not indicative of an influence in the field as a whole, his national or international acclaim, or his standing at the top of the field.

As discussed above, the Petitioner has performed a critical role for [REDACTED] is a large [REDACTED] company and the record confirms the Petitioner's value to that company as he has progressed in responsibilities. His progression and increased responsibilities for [REDACTED] however, are not indicative of his wider recognition in the field.

Finally, the Petitioner has documented his salary and the median salaries in his field. While his salary exceeds that of petroleum engineers, the Petitioner has progressed past that occupation and

³ The letter does not include the author's first name.

⁴ [REDACTED] does not define either acronym in this sentence.

has held several managerial positions in the same field. The 2016 [REDACTED] Membership Salary Survey contains the salaries of not only engineers, but also managers in that field. The mean salary was \$227,012 for supervisors/superintendents/leads and \$274,083 for managers/directors. The Petitioner has not shown that he has commanded a salary higher than \$200,200. Accordingly, not only does the Petitioner's salary not meet the requirements for 8 C.F.R. § 204.5(h)(3)(ix), it also is not indicative of national or international acclaim or standing among the small percentage at the top of the field, a field that includes managers.

III. CONCLUSION

While the Petitioner submitted the required initial evidence, the record in the aggregate does not support a finding that the Petitioner has established the level of acclaim or standing in the field required for the classification sought.

ORDER: The appeal is dismissed.

Cite as *Matter of M-B-*, ID# 886794 (AAO Jan. 24, 2018)