



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

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

MATTER OF S-S-G-

DATE: JAN. 24, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a doctoral candidate and researcher in the field of biomedical research, 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 Texas Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner met at least three of the ten initial evidence requirements.

On appeal, the Petitioner submits additional evidence, asserting that he meets the necessary criteria and qualifies for the classification.

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 is a doctoral candidate at [REDACTED] in the field of biomedical research in vaccines and immunological memory. Because he has not indicated or established that he has received a major, internationally recognized award, to meet the initial evidence requirements, he 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 two criteria: participation as a judging under 8 C.F.R. § 204.5(h)(3)(iv) and authorship of scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi). On appeal, he maintains that he also meets the lesser prizes or awards and original contributions criteria under 8 C.F.R. § 204.5(h)(3)(i) and (v). We have reviewed all of the evidence in the record, and concluded that it does not support a finding that the Petitioner satisfies at least three criteria.²

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 certificates indicating that he was twice selected for the [REDACTED] of the [REDACTED], and that he was selected as a [REDACTED]. The record shows that during these fellowships, he performed research with other scientists. In general, fellowships offer recipients training or educational opportunities and funding. While they might be selective, without

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).

² We will discuss those criteria the Petitioner has raised and for which the record contains relevant evidence.

additional corroboration, they do not qualify as prizes or awards that recognize the recipients' excellence in a particular field. Moreover, the Petitioner did not provide any documentary evidence to demonstrate that the fellowships are recognized nationally or internationally. Finally, while they may be prestigious, fellowships are not nationally or internationally recognized prizes or awards because only other students, not established experts in the field, compete for such funding.³ Academic awards and honors received while preparing for a vocation generally fall short of constituting a national or international prize or award for recognition in the field. As such, the Petitioner has not demonstrated that receiving funding, in the form of a fellowship, for his research and academic training constitutes receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The Petitioner also submitted documentation demonstrating that he was selected as a listee in [REDACTED] and equated this recognition with a prize or an award under this criterion. However, the record does not include evidence that the [REDACTED] a for-profit biographic volume, is nationally or internationally recognized or that its profiles constitute prizes or awards that recognize excellence in the field of endeavor. He therefore has not established that he meets this regulatory criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).

The record contains five articles that cite the Petitioner's work. The Director determined, and we agree, that the articles do not establish that he meets this criterion.

Articles that cite the Petitioner's work are primarily about the authors' own work or recent trends in the field, and are not about the Petitioner or his work. The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be "about the alien." The submitted documentation does not discuss the merits of the Petitioner's work, his standing in the field, any significant impact that his work has had on the field, or any other information that is about the Petitioner as required by this criterion. Moreover, we note that the articles citing to the Petitioner's work similarly referenced numerous other authors. While these research articles are relevant to the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(v) and will be addressed there, they do not meet this criterion.

³ The record indicates that at the time the Petitioner received the fellowships in 2007 and 2008, he was a student pursuing his undergraduate degree at the [REDACTED]

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 submits evidence that he has reviewed manuscripts submitted for publication in

and

This evidence meets the regulation at 8 C.F.R. § 204.5(h)(3)(iv).

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).

This regulatory criterion contains multiple evidentiary elements that the Petitioner must satisfy. The first is evidence of his contributions in the field. These contributions must have already been realized rather than being potential, future contributions. He must also demonstrate that his contributions are original, and are scientific, scholarly, artistic, athletic, or business-related in nature. The final requirement is that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. The phrase "major significance" is not superfluous and, thus, it has meaning. *See Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F.3d 28, 31 (3d Cir. 1995), *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2d Cir. 2003). The term "contributions of major significance" connotes that the Petitioner's work has significantly impacted the field. *See 8 C.F.R. § 204.5(h)(3)(v); see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. 2013).

The Petitioner submitted letters from two professors at [REDACTED] who served on the Thesis Advisory Committee for his doctorate work.⁴ [REDACTED] M.D., Professor of [REDACTED] stated that he critically judged the Petitioner's dissertation research, and has determined that his research "offers a new potential way to enhance the effectiveness of vaccines," and is "capable of offering a necessary breakthrough in the field of vaccinology." [REDACTED] M.D., Chief of the Department of [REDACTED] provided that the Petitioner "possesses the necessary drive and ambition to rise to the top of his field." Although both [REDACTED] and [REDACTED] indicated that the Petitioner's research likely will have a positive impact and improve the field of memory T-cells, the possibility of a future impact, even a profound one, does not satisfy the regulatory requirements promulgated at 8 C.F.R. § 204.5(h)(3)(v).

[REDACTED] a scientist at the [REDACTED] in India, stated that he first became acquainted with the Petitioner while he was an undergraduate summer research fellow at the

⁴ On appeal, the Petitioner contends that [REDACTED] and [REDACTED] whose letters are discussed below, "have no history with [the Petitioner]" and that they serve as independent experts. Based on the claimed relationships outlined in their letters, however, this statement directly contradicts the statements of the authors. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (finding that an inconsistency must be resolved with independent objective evidence).

He commended the Petitioner's "tremendous curiosity and enthusiasm," and noted that a national journal published his research as a fellow and garnered him an invitation to return as a summer research fellow for a second year, during which time he showed "creativity in the field of immunology." He concluded by endorsing the Petitioner's petition "so that he can continue working hard to solve the current vaccination issues."

Assistant Professor in Pediatrics at the in Thailand, stated that he was the Petitioner's supervisor on the project at the at He stated that the Petitioner's "expertise in T-cell immunology helped expedite the project significantly," that his "diligence, hard work, and expertise in T-cells would keep advancing the field." and that his current research "can prove instrumental."

Although these attestations discuss the potential impact of the Petitioner's work, none of his references provide examples of how his work is already influencing the field such that it qualifies as a contribution of major significance. While the evidence demonstrates that the Petitioner is a talented researcher with potential, it falls short of establishing that he had already made contributions of major significance.

The Petitioner also provided a citation index from in support of the petition, which demonstrated that his article entitled received seven citations in 2014, and his articles entitled was cited twice in 2013. He has not sufficiently explained how these articles, which received a limited number of citations, exhibit his impact within the field in a manner consistent with this criterion's requirements. For example, he has not submitted evidence to demonstrate that a good number of researchers have been sufficiently influenced by his work such that it rises to the level of major significance in the field, or that the number of citations is indicative of a widespread impact in the field. The Petitioner submits a letter from Designated Assistant Professor at on appeal, who cited to the Petitioner's work. This letter states that the Petitioner's research "is capable of making even more significant impact in the years to come." Although claims that "at least six different groups have reported the use of after the publication." the record does not include independent evidence to corroborate this statement. While it appears that the Petitioner's T-cell research is novel, he has not established that his work has impacted his field at a level consistent with the regulatory requirement of contributions of major significance. *See Visinscaia*, 4 F. Supp. 3d at 135-136 (concluding that the decision of U.S. Citizenship and Immigration Services (USCIS) to give limited weight to uncorroborated assertions from practitioners in the field was not arbitrary and capricious).

In response to the Director's request for evidence, the Petitioner submitted a second letter from that further expanded on his joint research with the Petitioner. He claims that the Petitioner's report on optimal culture conditions for culturing T-cells in was novel and original, and that their joint research on the project, published in 2014, "inspired many groups

to start using [REDACTED] in culturing and expanding T-cells outside the human body to meet their translational research needs.” [REDACTED] concludes that subsequent papers reported results they achieved after relying on the joint research they conducted on the [REDACTED] project, thereby establishing the original contributions of the Petitioner as ones of major significance. Although this letter discusses the published articles that resulted from their joint research, and that others have cited to their work, [REDACTED] does not sufficiently explain the impact the Petitioner’s research has made in the field as a whole.

The submitted letters generally praise the Petitioner’s research, and conclude by recommending the approval of his petition for permanent residence in the United States. Solicited letters from colleagues that do not specifically identify contributions or specific examples of how those contributions influenced the field are insufficient to meet this criterion. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (2d Cir. 2009), *aff’d in part*, 596 F.3d 1115. The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm’r 1988). However, USCIS is ultimately responsible for making the final determination regarding a petitioner’s eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive confirmation of eligibility; USCIS may, as we have done above, evaluate the content of those letters to determine whether they support the foreign national’s eligibility. *See id.* at 795; *see also Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding our decision to give minimal weight to general, solicited letters from colleagues or associates that do not provide details on contributions of major significance in the field).

The regulation at 8 C.F.R. § 204.5(h)(3)(v) requires “[e]vidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of *major significance* in the field.” (Emphasis added). Without additional, specific evidence showing that the Petitioner’s work has been unusually influential, widely applied by the field, or has otherwise risen to the level of contributions of major significance, he has not established that he meets 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).

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

III. CONCLUSION

The Petitioner is not eligible for the classification because he 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). Thus, we need not fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we have reviewed the

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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 S-S-G-*, ID# 833661 (AAO Jan. 24, 2018)