



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

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

MATTER OF J-M-

DATE: JAN. 29, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a professor of marketing management, seeks classification as an individual of extraordinary ability in business. *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 Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional evidence and contends that he meets four criteria.

Upon *de novo* review, we will sustain 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).

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 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. 8 C.F.R. § 204.5(h)(2)-(3).

II. ANALYSIS

The Petitioner is a visiting professor of marketing management employed by [REDACTED]. As he has not 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).

A. Evidentiary Criteria

The Director found that the Petitioner met the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv) and the authorship of scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi). We find that the evidence in the record sufficiently supports these conclusions based on his work as a peer reviewer and member of several editorial boards as well as his authorship of scholarly articles. The Director found that the Petitioner had not established that his role as Director of the [REDACTED] constituted a leading or critical role under 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner references a copy of a letter from the Managing Director of the [REDACTED], renewing the Petitioner's appointment as Director of the [REDACTED] and specifying his responsibilities as such. The appellate submission also includes letters from the President of the Board of Governors and the Director of the Board of Directors for [REDACTED] praising the Petitioner's role leading the institution. We conclude that this evidence establishes that the Petitioner meets the leading role criterion. Because the Petitioner has met three of the initial evidentiary criteria, as required, we will discuss the remaining documentation in the context of a final merits determination.¹

¹ On appeal, the Petitioner maintains that he also meets the criteria relating to contributions of major significance at

B. Final Merits Determination

As the record satisfies at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), we will analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. We evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, making him one of the small percentage who have risen to the very top of the field of endeavor. *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. Here, the Petitioner has shown his eligibility for this classification.

The Petitioner received a Ph.D. in management from the Indian [REDACTED] in [REDACTED] India. The record indicates that the Petitioner has served on the editorial board of several reputable journals and that he served as the Director of the [REDACTED] in [REDACTED] for over three years, which represents a leading role in an organization with a distinguished reputation. Furthermore, he has consistently published highly cited and influential articles in his field of endeavor. Each of these aspects, together with the evidence discussed further below, support a finding that the Petitioner is among the small percentage at the top of his field of endeavor with sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2)-(3).

The Petitioner's participation in judging the work of others, individually and on a panel, is consistent with the classification sought. The evidence reflects that the Petitioner has conducted reviews for leading journals, has shepherded numerous conference paper reviews, and has served on the editorial board of three well-regarded journals including [REDACTED] and the [REDACTED]. He continues to serve on the latter two, which demonstrates that he has experience judging the work of others at an accomplished level. These actions, in the aggregate, are consistent with a conclusion that the Petitioner is recognized in the field.

With respect to his scholarly articles, the Petitioner has co-authored a considerable amount of material published in highly ranked professional journals, such as [REDACTED] and the [REDACTED]. As authoring scholarly articles is inherent to researchers, the citation history or other evidence of the influence of the Petitioner's articles is an important indicator of the impact and recognition that his work has had on the field and whether such influence has been sustained. The record contains an [REDACTED] report to demonstrate how his citation count compares to others in the field. Here, the Petitioner has a high citation level in his field, particularly from 2012 through 2017.

8 C.F.R. § 204.5(h)(3)(v). We will consider the evidence relating to this criterion in our final merits determination.

Regarding the Petitioner's original contributions, the record indicates that his scholarly articles have made significant impact in the field of marketing. The Petitioner submitted letters from marketing professors at leading business programs, attesting to his influence in the field. For example, the record contains a letter from [REDACTED] Professor of Marketing at [REDACTED] in France, who references the Petitioner's research regarding logos. He states that "the United States has the largest number of multinational companies in the world" and that the Petitioner's "design guidelines provide information that allows companies to design new or modify existing logos in order to ensure positive consumer response in any market, thus enhancing communication for American companies and ensuring profit growth."

The record contains a letter from [REDACTED] Associate Professor at the [REDACTED] [REDACTED] who asserts that the Petitioner "has proven himself as a frontrunner in the effort to capitalize upon large sets of consumer behavior data through highly efficient CLV [customer lifetime value] estimation strategies." He further states that due to the current "prevalence of 'big data' in systems analysis research," the Petitioner's continued input "is vital to the improvement of widely consequential marketing techniques."

In a letter from [REDACTED] Professor of Marketing for [REDACTED] Texas, she states that "[c]ustomer data quality is one of the most important factors for business success today" and indicates that the Petitioner's "creation of processes that produce more accurate market assessments and developments of models that are easy to use is significant for transforming organizations and implementing effective decision making guidelines for a number of industries in the United States, including marketing organizations, credit card companies, credit unions, and banks." A letter from [REDACTED] professor at [REDACTED] indicates that the Petitioner's work served as the benchmark for several other studies regarding consumer behavior in emerging economies.

Regarding the Petitioner's sustained acclaim in the field, the record indicates that he performed a leading role for an organization that has a distinguished reputation for over three years. The record demonstrates that he served as the Director of the [REDACTED] in [REDACTED] from 2012 to 2015. The record contains a [REDACTED] article which ranks the top MBA universities accredited by the [REDACTED] in the United Arab Emirates (UAE) and which lists the [REDACTED] as being second. In a letter from [REDACTED] Director of the [REDACTED] Board of Directors, he states that the Petitioner "brought about profound changes at [REDACTED] and "bolstered the quality and reputation of the institute." [REDACTED] indicates that the Petitioner hosted [REDACTED] conference at [REDACTED] expanding the institute's visibility and renown in the UAE and the rest of the world." In a letter from [REDACTED] a member of the Parliament of India and also the President of the Board of Governors for the [REDACTED] he states that the Petitioner's "impact on [REDACTED] was powerfully felt" and that "he played a pivotal role in making [REDACTED] a standout institution in business and management training."

² As stated on the letterhead for this letter, [REDACTED] is the [REDACTED] France.

The Petitioner's publication history has also led to sustained acclaim as his strong citation history demonstrates the impact his work has had in the field. In addition, the record contains a letter from [REDACTED] Professor of Marketing at [REDACTED] who states that the Petitioner's "research on the relationship between emerging markets and buyer behavior has taken significant steps to filling in the gaps in literature in this field of study." He further states that the Petitioner's conclusions "have motivated further investigations by researchers from the Americas, Africa, Australia, Vietnam, Romania, Spain, India, and Malaysia." In his letter, [REDACTED] Professor of Marketing Research at the [REDACTED] states that "[t]he importance and utility of [the Petitioner's] research has been recognized by professional and implemented in a number of marketing textbooks, including [REDACTED] which is "widely used in marketing management classes at the graduate level." Together, this evidence demonstrates that the Petitioner has achieved sustained acclaim in his field.

Here, the record reflects that the Petitioner has been in a highly regarded position as Director of the [REDACTED] he has a significant record as a judge of the work of others, a high citation rate compared to others in the field of economics and business and has continued to publish highly influential material in his field, which are together consistent with a finding that the Petitioner is among the small percentage at the top of his field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). We note that the Petitioner's contributions have significantly influenced others in the field, and when considered in the aggregate with the evidence discussed above, the Petitioner has demonstrated that his achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national and international acclaim and that his achievements have been recognized through extensive documentation. Lastly, the Petitioner has indicated that he intends to continue working in his area of expertise. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.