



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

MATTER OF F-Q-

DATE: JULY 9, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a researcher in the field of materials science, seeks classification as an alien of extraordinary ability. *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 has sustained national or international acclaim and is one of the small percentage of researchers at the very top of his field.

On appeal, the Petitioner submits additional evidence and asserts that the totality of the evidence demonstrates that he meets the requirements for this immigrant visa classification.

Upon *de novo* review, we will dismiss the appeal.<sup>1</sup>

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

---

<sup>1</sup> On April 12, 2018, the Director approved the Petitioner's Form I-140 filed under the same classification in a subsequent case, [REDACTED]. The decision in that separate petition will not be considered in our review in this proceeding.

- (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

The Director found that the Petitioner meets the requisite three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), those relating to service as a judge of the work of others, original contributions of major significance to the field, and authorship of scholarly articles. However, the Director found that the totality of the evidence in the record did not establish the Petitioner's sustained national or international acclaim, or that he is one of the very small percentage of those at the top of the field of materials science. On appeal, the Petitioner asserts that the evidence of his work as a peer reviewer, hundreds of citations to his work by other researchers, and media reports covering research which he has contributed to demonstrate his national or international acclaim. After reviewing all of the evidence in the record, we agree that the Petitioner has established he meets at least three of the required criteria, but find that he has not established his sustained acclaim or that he is one of the very small percentage of researchers at the top of his field.

The Petitioner first draws attention to several non-precedent AAO decisions for the extraordinary ability classification. He notes that in those cases, we found that a petitioner with fewer citations established either that he or she had made original contributions of major significance to the field or

had risen to the top of his or her field. However, these decisions were not published as a precedent and therefore do not bind USCIS officers in future adjudications. See 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case, and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. In this case, two of the non-precedent decisions submitted by the Petitioner on appeal were issued before the *Kazarian* decision, after which USCIS altered its policy and began applying a two-part approach to the adjudication of petitions under this classification. More importantly, we do not accept the premise that the number of citations to a particular researcher's published work in one field can be compared to that of another researcher in a different field in determining his or her standing as a top researcher. Such an analysis does not take into account differences in the way that knowledge is disseminated in various scientific fields, differing expectations of researchers, and varying levels of research activity in scientific fields over time.<sup>2</sup>

In his decision, the Director responded to the Petitioner's submission of [REDACTED] citation records for other researchers in his field by reviewing those records for the researchers who submitted reference letters on the Petitioner's behalf. The Director concluded that a direct comparison of these citation records with those of the Petitioner placed him somewhere in the middle of the field. On appeal, the Petitioner has not submitted evidence to counter the Director's finding, or that would otherwise establish that the number of citations to his published work demonstrates that he is at the very top of his field.

The Petitioner's appellate brief next focuses on his work as a peer reviewer for several scholarly journals, and again looks to non-precedent decisions of the AAO as a guidepost. While we agree with the Petitioner that the quality of the judging of other's work can be more important than the quantity, the Petitioner has not established that either the quality or quantity of his service as a peer reviewer demonstrate national or international acclaim in his field. The petition includes evidence that the Petitioner has reviewed 16 manuscripts submitted to the following journals:

[REDACTED]

In support of his assertion that the quality of his review work sets him apart from other researchers, the Petitioner refers to the letter from [REDACTED], a lecturer at [REDACTED] and an editor of [REDACTED]. Regarding the quality of the Petitioner's reviews, [REDACTED] writes that "[H]e provided timely and insightful reviews of the assigned manuscripts, and his review service allowed the authors of the manuscripts to improve the quality of their research work prior to publication. [The Petitioner's] evaluations were essential to making the final decision about

---

<sup>2</sup> See [https://\[REDACTED\]](https://[REDACTED]) accessed on June 1, 2018, for information on varying citation rates among scientific fields.

publication.” This statement does not indicate that the quality of the Petitioner’s review work differed substantially from that of other experts who donated their time to perform this necessary function. The section of the journal’s website describing its peer-review policy states that “[P]eer review is an integral part of scientific publishing that confirms the validity of the science reported. Peer reviewers are experts who volunteer their time to help improve the journal manuscripts they review-they offer authors free advice.”<sup>3</sup> The website also indicates that two or more reviewers usually review a manuscript, and that the final decision on whether to publish the article rests with the editorial board. The greater responsibility afforded members of an editorial board, and the recognition associated with such a position, is also acknowledged in the non-precedent decision submitted by the Petitioner, which states that “[C]redit as one of a limited number of editors affords name recognition and is consistent with acclaim.” While the Petitioner’s expertise in materials science was undoubtedly essential and valuable to the peer review process for this journal and the others, the evidence does not demonstrate that either the quality or quantity of this work set him apart from his peers, or is consistent with the same level of acclaim associated with editorial board members of prestigious journals.

The Petitioner also draws attention to “the many media reports highlighting his research” on appeal, asserting that this evidence was neglected by the Director. The evidence submitted consists mainly of several news releases prepared by [REDACTED] which highlight research projects conducted by researchers at the school, projects on which the Petitioner collaborated as part of a research team at the [REDACTED]. These news releases were posted on [REDACTED] own website, as well as [www.\[REDACTED\]](http://www.[REDACTED]) and [www.\[REDACTED\]](http://www.[REDACTED]). The evidence does not indicate that either of these websites edited the news releases or provided additional commentary on the importance of the projects discussed, or specifically about the Petitioner’s role in the projects. Self-promotional materials such as these carry less evidentiary weight than would an independent media source providing commentary. In addition, the mention of the Petitioner’s name as one of several graduate students to contribute to the research does not significantly contribute to his national or international acclaim, or mark him as one of the top researchers in the field of materials science.

### III. CONCLUSION

We have reviewed all of the evidence of record, and find that it does not establish that the Petitioner is an individual of extraordinary ability consistent with sustained national or international acclaim in his field or a ranking as one of a small percentage at the very top of his field.

**ORDER:** The appeal is dismissed.

Cite as *Matter of F-Q-*, ID# 1319941 (AAO July 9, 2018)

---

<sup>3</sup> See [https://www.\[REDACTED\]](https://www.[REDACTED]), accessed on June 1, 2018.