



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

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

MATTER OF J-L-

DATE: JULY 18, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a real estate analyst and researcher, seeks classification as an individual 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 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 documentation and a brief, arguing that he meets at least three of the ten criteria.

Upon *de novo* review, we will dismiss 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). If that petitioner does not submit this evidence, then 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if it is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to a beneficiary's occupation.

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) (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). 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 real estate analyst and researcher who is the director of real estate studies at [REDACTED]. Because he 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 the Petitioner met only two of the initial evidentiary criteria, judging under 8 C.F.R. § 204.5(h)(3)(iv) and scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi). The record reflects that the Petitioner served as a peer reviewer of manuscripts for journals and at conferences, such as [REDACTED] and the [REDACTED]. In addition, he authored scholarly articles in publications, such as [REDACTED] and [REDACTED]. Accordingly, we agree with the Director that the Petitioner satisfied the judging and scholarly articles criteria.

On appeal, the Petitioner maintains that he meets one additional criterion, discussed below. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the plain language requirements of at least three criteria.

*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).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Petitioner argues that his authorship of the [REDACTED] and [REDACTED] meets this criterion. As it relates to [REDACTED], the foreword indicates that the code was based on requirements from the [REDACTED] the [REDACTED]. While the Petitioner is listed as one of over a dozen individuals who “drafted” the code, he did not explain or establish what, if any, original content or concepts derived from him in codifying the government requirements. Moreover, the Petitioner did not demonstrate the extent of his role in drafting the code, and he did not specifically identify what contributions he made to [REDACTED] and whether they are considered of major significance in the field. Moreover, regarding [REDACTED] the Petitioner is listed as one of the editor-in-chiefs rather than the author of the guide. Furthermore, while [REDACTED], professor at [REDACTED] indicated that [REDACTED] is “now promoted by the central government as the key guidelines for real estate appraisers in China” and [REDACTED] lecturer at [REDACTED], stated that the Petitioner was “responsible for providing case studies to candidates sitting for Professional Exams for [REDACTED] they discuss the Petitioner’s influence on the Chinese real estate market rather than the overall field.”<sup>1</sup> For these reasons, the Petitioner did not establish that [REDACTED] and [REDACTED] are his original contributions and that they have been of major significance to the greater real estate field.

In addition, the Petitioner contends that his lectures at the [REDACTED] “are attended by some of the leaders of NAR and have made an influence on the organization.” According to [REDACTED] owner of [REDACTED] “[e]vents primarily organized by [the Petitioner] are among the first and most influential exchange events ever organized between [REDACTED] and the [REDACTED] [REDACTED] however, did not identify the Petitioner’s contributions and explain how he influenced the real estate field. Likewise, the Petitioner argues that he served as the keynote speaker for the [REDACTED] and coordinator for the [REDACTED] [REDACTED] and the [REDACTED]

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<sup>1</sup> See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator’s Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 8-9* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>; see also *Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).



### III. CONCLUSION

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. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r. 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is dismissed.

Cite as *Matter of J-L-*, ID# 1545180 (AAO July 18, 2018)