



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

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

MATTER OF X-L-

DATE: NOV. 16, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a professor, 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 Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only one of the ten initial evidentiary criteria, of which she must meet at least three.

On appeal, the Petitioner presents an additional document, as well as previously submitted evidence and a brief, contending that she 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 he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual'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 professor of law at the [REDACTED] of Political Science and Law and has been a visiting scholar at [REDACTED] School of Law. Because she has not indicated or established that she has received a major, internationally recognized award, she 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 one of the initial evidentiary criteria, judging under 8 C.F.R. § 204.5(h)(3)(iv).

On appeal, the Petitioner maintains that she fulfills four additional criteria. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

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 contends that her receipt of a “Chinese Government Scholarship” by the China Scholarship Council (CSC) meets this criterion. At the outset, although the Petitioner submitted certified English language translations for her foreign language documents at the initial filing of her petition, she did not provide certified English translations in response to the Director's request for evidence (RFE). Any document in a foreign language must be accompanied by a full English

language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the Petitioner did not offer properly certified English language translations in response to the RFE, we cannot meaningfully determine whether the translated material is accurate and thus supports her claims.

Initially, the Petitioner submitted a certificate reflecting that CSC awarded her a government scholarship “to sponsor her up-coming study abroad.” In addition, she provided a letter from CSC explaining that an “awardee was selected through a rigid academia evaluation process,” “covers the returning international airfare and living stipend,” and CSC “sponsors Chinese citizens to pursue study abroad and international students to study in China.” On appeal, she offers a screenshot from csc.edu.cn stating that “[t]he objective of the CSC is to provide . . . financial assistance to the Chinese citizens wishing to study abroad and to the foreign citizens wishing to study in China.”¹

In order to satisfy this criterion, a petitioner must demonstrate that her prizes or awards are nationally or internationally recognized for excellence in the field.² Although the Petitioner demonstrated her receipt of the scholarship, she did not establish that the field recognizes it as a national or international award for excellence. Furthermore, the Petitioner did not establish that government financial aid scholarships are tantamount to nationally or internationally recognized prizes or awards for excellence in the field consistent with this regulatory criterion.

Accordingly, the Petitioner did not demonstrate that she fulfills this criterion.

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 Director determined that the Petitioner satisfied this criterion. The Petitioner must show that she has not only been invited to judge the work of others, but also that she actually participated in the judging of the work of others in the same or allied field of specialization.³ The record reflects that the Petitioner initially provided a letter from the [REDACTED] in China stating that “[y]ou have been appointed the expert reviewer for this Sampling PhD Review program.” However, the letter is addressed to “Expert” with no mention of the Petitioner. The Petitioner also submitted a document entitled, “Sampled Post Graduate Degree Dissertation will be Reviewed,” along with an unidentified screenshot reflecting the responsibilities

¹ We note that in response to the RFE, the Petitioner presented an uncertified translation of a letter from [REDACTED] who claimed that “[s]cholars in China take it as a lifetime honor to get this award” and “[t]he evaluation and judge process of this award is known for its strictness.”

² 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 6* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

³ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 8.

of the [REDACTED] in China. This documentation does not reflect evidence of the Petitioner's participation in the review of post graduate degree dissertations.

Moreover, the Petitioner provided a "Letter of Appointment" from the [REDACTED] Law School stating that she has "been appointed as the academic dissertation reviewer for the PhD of Civil and Commercial Law major." The letter indicated that the dissertation review form will be mailed to her and requested any comments be returned to the university. The Petitioner also presented a letter from the [REDACTED] inviting her to review an article. The letters, however, do not demonstrate that she actually reviewed dissertations or journal articles.

In response to the RFE, she submitted an uncertified translation of a letter from [REDACTED] who claimed that he "invited her to take up the role as a[n] anonymous PhD dissertation expert reviewer for [REDACTED] Law School." See 8 C.F.R. § 103.2(b)(3). Notwithstanding the uncertified translation, [REDACTED] did not provide specific, detailed information establishing that the Petitioner actually reviewed dissertations. Similarly, she also provided two uncertified translations from unidentified authors asserting that "[t]he [REDACTED] is very honored to have appointed her as an anonymous expert reviewer" and "she has been appointed as the reviewer for the [REDACTED] *Id.* Again, while the uncertified translations averred that the Petitioner was appointed to review, they do not contain probative information demonstrating that she truly reviewed journal articles.

For the reasons discussed above, the Petitioner did not establish that she meets this criterion. Accordingly, we withdraw the Director's finding for this issue.

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 she 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 she participated in the drafting of the [REDACTED] and her research was further adopted by legislative members into a provision of [REDACTED]. The record contains an excerpt of the civil code where the Petitioner is listed among over two dozen researchers comprising the [REDACTED]. Moreover, she references a recommendation letter from [REDACTED] who indicated that he adopted the Petitioner's [REDACTED]. [REDACTED] stated that the Petitioner was an invited expert for the drafting of the [REDACTED]. While the documentation reflects her involvement, the Petitioner did not explain or establish what, if any, original content or concepts derived from her in drafting the code. Further, the Petitioner did

not demonstrate the extent of her role in drafting the code, and she did not specifically identify what contributions she made and whether they are considered of major significance in the field. In addition, [REDACTED] did not elaborate how the Petitioner's research has significantly impacted or influenced the overall field in a major way.⁴ Letters that lack specifics and simply use hyperbolic language do not add value and are not considered to be probative evidence that may form the basis for meeting this criterion.⁵

Further, the letter considered above primarily contains attestations of the Petitioner's status in the field without providing specific examples of contributions that rise to a level consistent with major significance. Letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field. *Kazarian*, 580 F.3d at 1036, *aff'd in part* 596 F.3d at 1115. Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

The record also contains an invitation from the Office of the [REDACTED] to participate in a symposium. Participation in a conference in-and-of-itself does not show original contributions of major significance. Publications and presentations are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance." *See Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115. Here, the Petitioner did not demonstrate that she actually participated in the symposium, and she did not establish that it significantly impacted her field.

For these reasons, the Petitioner has not met her burden of showing that she has made original contributions of major significance in the field.

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 record contains sufficient evidence showing that the Petitioner authored scholarly articles in professional journals. Accordingly, the Petitioner demonstrated that she fulfills 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 Petitioner argues that her role with the [REDACTED] satisfies this criterion. As it relates to a leading role, then evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role

⁴ *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9; *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).

⁵ *Id.*

is or was, in fact, leading.⁶ Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. It is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical.⁷

At initial filing, the Petitioner provided an "Honorary Credential" indicating that she had been appointed to the standing committee of [REDACTED]. In addition, she offered a letter from an unidentified author of [REDACTED] reflecting that the Petitioner had been chosen to lead the marriage and family chapter. Further, she presented a screenshot from cwu.edu.cn showing the background and purpose of [REDACTED]. However, the Petitioner did not show how her role on the standing committee or marriage and family chapter reflects her leading or critical role to [REDACTED] overall. She did not, for example, provide evidence establishing how her role was more prominent to the other roles in [REDACTED]. Moreover, the Petitioner did not demonstrate how her roles contributed in a way that is of significant importance to the outcome of [REDACTED] activities.⁸ Further, the [REDACTED] letter did not contain detailed and probative information that specifically addressed how her roles were leading or critical.⁹

In response to the RFE, the Petitioner submitted uncertified English language translations for a letter from [REDACTED] and three press releases for the *Elderly Law* journal. See 8 C.F.R. § 103.2(b)(3). Furthermore, the letter and press releases described a conference hosted by [REDACTED] where it was announced that a new journal will be published; however, these events occurred after the filing of the petition. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Regardless, the evidence does not show that the Petitioner performed in a leading or critical role for [REDACTED]. Moreover, the Petitioner did not demonstrate the [REDACTED] enjoys a distinguished reputation. The relative size or longevity of an organization or establishment is not in and of itself a determining factor.¹⁰

Accordingly, the Petitioner did not show that she meets this criterion.

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

⁶ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

⁷ *Id.*

⁸ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

⁹ *Id.*

¹⁰ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10 (defining *Merriam-Webster's Dictionary* definition of "distinguished" as marked by eminence, distinction, or excellence).

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 her scholarly accomplishments 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 she 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 she qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of X-L-*, ID# 1726454 (AAO Nov. 16, 2018)