U.S. Citizenship and Immigration Services

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

MATTER OF S-N-

DATE: SEPT. 27, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a life and environmental scientist, 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 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 she must meet at least three.

On appeal, the Petitioner submits additional documentation and a brief, arguing 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 post-doctoral research scholar at the [redacted]. 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 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 on the editorial board for journals and as a peer reviewer of manuscripts. In addition, she authored scholarly articles in professional publications. Accordingly, we agree with the Director that the Petitioner fulfilled the judging and scholarly articles criteria.

On appeal, the Petitioner maintains that she 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 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 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 contends that "[m]any experts in molecular biology have accomplished progress as a direct result of [her] findings" based on her research that clarified genome regulation by transposable elements (TEs). She further claims that her identification of the role of post-transcriptional RNA interference in transcriptional silencing of active TEs through RNA-directed DNA methylation "provided the groundwork for numerous subsequent research studied by independent scientists." Although the Petitioner provided evidence reflecting the originality of her work through co-authored publications reporting her findings, she has not demonstrated that the overall field views her research and work as being majorly significant.

The Petitioner argues that "several of her articles have been cited at rates far beyond the average in her field" and "in peer-reviewed journals of high prestige in global scientific practice." Specifically, she maintains that four of her articles are in the top 10% most cited by subject area for the year in which they were published, having been cited 136, 123, 69, and 44 times, respectively.[1] The comparative ranking of a paper's citation rate does not automatically establish it as a majorly significant contribution to the field. Rather, the appropriate analysis is to determine whether a petitioner has shown that her individual articles, factoring in citations and other corroborating evidence, have been considered important at a level consistent with original contributions of major significance in the field. 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. Furthermore, a publication that bears a high ranking or impact factor is reflective of the publication's overall citation rate. It does not, however, demonstrate the influence of any particular author within the field, how an author's research impacted the field, or establishes a contribution of major significance in the field.

Although her citations show that her research has received some attention from the field, the Petitioner did not establish that the number of citations to her individual papers demonstrate their "major significance." While she submitted samples of other articles that cited to her work, they do not distinguish the Petitioner's written work from the other articles cited. Further, the articles do not show the significance of the Petitioner's research to the overall field beyond the authors who cited to her work.[2] Here, the Petitioner has not shown that her citations rise to a level of "major significance" consistent with this regulatory criterion.

[1] The Petitioner submitted evidence reflecting that she published five journal articles and one book chapter.

[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* 8-9 (Dec. 22, 2010),

In addition, the Petitioner contends that her "research has also been the subject of dedicated coverage by *EMBO Journal*," which "devoted a commentary article that highlighted and discussed several of [her] research articles on her novel discovery of a non-canonical RNA-directed DNA methylation pathway." Although the *EMBO Journal* article cites to three of the Petitioner's published articles, she did not establish that this journal article demonstrates that her three research papers are considered to be of major significance to the field. The Petitioner did not provide evidence, for example, showing that the *EMBO Journal* article led to widespread coverage and interest to her work and research. Moreover, while the Petitioner provided a letter from , who co-authored the *EMBO Journal* article, he did not demonstrate how the Petitioner's work has significantly impacted or influenced the field. Instead, Dr. Martienssen attests that his "decision to include [the Petitioner's] work testifies to the significance of her contributions" without explaining how the field considers them to be of "major significance."

Further, the Petitioner argues that her "research has been singled out by F1000 Prime . . . a scientific review organization that enables experts to obtain reliable scientific analysis of recent advances." The record contains a screenshot from f1000.com that summarized the Petitioner's paper.[3] Although the evidence reflects the originality of the Petitioner's contribution, it does not demonstrate that the F1000 Prime reporting in-and-of-itself establishes a contribution of major significance in the field. Moreover, the Petitioner did not establish that summarizing her article by a F1000 Prime faculty member is evidence that her paper is considered to be majorly significant to her field.

While the Petitioner notes that the record contains recommendation letters praising her for her original contributions, the letters do not demonstrate their major significance to the field. The letters recount the Petitioner's research and findings, indicate their publications in journals, and mention her citation numbers. Although they detail the novelty of the Petitioner's research, they do not show why it has been considered of such importance and how its impact on the field rises to the level required by this criterion. The letters contain attestations of the Petitioner's status in the field without providing specific examples of contributions that are indicative of major significance. For instance, professor at the described the Petitioner's work with an Alzheimer's disease study and her findings, but he did not explain the significance of her research to the field or how it has greatly influenced other researchers or scientists. 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.

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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).

[3] The screenshot from f1000.com indicates that F1000 faculty conducts reviews to "provide context on emerging themes in biology and medicine."

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).

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that she has made original contributions of major significance in the field.

## 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 her 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 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 S-N-*, ID# 1668418 (AAO Sept. 27, 2018)