U.S. Citizenship and Immigration Services

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

MATTER OF A-T-

DATE: APR. 16, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a research scientist, seeks classification as an individual of extraordinary ability in the field of natural language processing and speech communication. *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 petition, concluding that the Petitioner had satisfied two of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner contends that he meets an additional criterion, relating to making original contributions of major significance in the field, 8 C.F.R. § 204.5(h)(3)(v). He maintains that he qualifies for the classification.

Upon *de novo* review, we will dismiss the appeal.

## I. LAW

Section 203(b)(1)(A) of the Act makes visas available to certain immigrants 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 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 the petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as qualifying awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the submitted material in a final merits determination and assess whether the record, as a whole, 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, 1119-20 (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, 1343 (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's resume and other documents indicate that he received his Doctor of Philosophy degree in applied informatics in 2007, and has worked as a research associate and a research assistant professor at the [redacted] The Director concluded that he met the participation as a judge criterion under 8 C.F.R. § 204.5(h)(3)(iv) and the authorship of scholarly articles criterion under 8 C.F.R. § 204.5(h)(3)(vi). The record supports this conclusion.

Specifically, the Petitioner has offered letters from publications including *IEEE/ACM Transactions on Audio, Speech, and Language Processing*, and the *Journal of Speech, Language, and Hearing Research*, which are professional publications, confirming that he served as one of their manuscript reviewers. In addition, evidence confirms that he has authored scholarly articles that were published in professional journals, including [redacted] that appeared in the *Journal of the Acoustical Society of America*, and [redacted] that appeared in *Magnetic Resonance in Medicine*. While he has satisfied two criteria under 8 C.F.R. § 204.5(h)(3)(iv) and (vi), as we will discuss below, he has not met the initial evidence requirements of satisfying at least three criteria.[1]

[1] The Petitioner has not alleged, and the record does not demonstrate, that he has received a major, internationally recognized award. *See* 8 C.F.R. § 204.5(h)(3). As such, he must provide documentation that meets at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x) to satisfy the initial evidence requirements.

> *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).

To satisfy this criterion, the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. Major significance in the field may be shown through evidence that his research findings or original methods or processes have been widely accepted and implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. *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/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf.

The record is insufficient to demonstrate, by a preponderance of the evidence,[2] that the Petitioner has satisfied the criterion under 8 C.F.R. § 204.5(h)(3)(v). On appeal, he claims that he meets this criterion because he has authored scholarly articles, other scientists have cited to and relied on his work, he has presented his findings in international conferences, and he has submitted letters from other scientists praising his research.

The Petitioner's written work, citation frequency, and conference presentations are insufficient to satisfy this criterion. The record includes reference letters and other documentation showing that he has published articles and a book chapter in reputable publications, as well as shared his research in international conferences. For example, [redacted] a professor of electrical and computer engineering at the [redacted] indicates that the Petitioner's "discoveries have been published in prestigious international journals" and that he has "been invited to present his landmark work at many national and international symposiums." Such evidence verifies that the Petitioner has shared his research. To satisfy this criterion, he must demonstrate that the reaction from the field upon the dissemination of his work confirms that the value of his research rises to the level of "contributions of major significance" in the field. *See* 8 C.F.R. § 204.5(h)(3)(v). "[P]eer-reviewed presentations at academic symposia or peer-reviewed articles in scholarly journals that have provoked widespread commentary or received notice from others working in the field, or entries (particularly a goodly number) in a citation index which cite the alien's work as authoritative in the field, may be probative of the significance of the alien's contributions to the field of endeavor." USCIS Policy Memorandum PM 602-0005.1, *supra*, 8.

On appeal, the Petitioner submits a printout from Google Scholar, showing that his most cited article, published in 2014, garnered 60 citations, and his second most cited article, published in 2017, received 26 citations. He claims that he has authored over 60 scholarly articles that have been cited approximately 360 times by others. He has not demonstrated the accuracy of this citation frequency,

[2] If a petitioner submits relevant, probative, and credible evidence that leads U.S. Citizenship and Immigration Services (USCIS) to believe that the claim is "more likely than not" or "probably true," the petitioner has satisfied the "preponderance of the evidence" standard of proof. *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 4.

which originates from Google Scholar. For example, he has not explained how Google Scholar tallies the citations or if its information is reliable.

Regardless, the Petitioner has not presented sufficient evidence establishing that the citation frequency, assuming it is accurate, confirms that his work has provoked widespread commentary or received notice from others working in the field at a level consistent with "contributions of major significance in the field." Although he has submitted some examples of other scientists citing to and relying on his research, he has not sufficiently shown that his work has been cited as authoritative in the field or has otherwise influenced the field in a significant way. *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, 8.

While the record includes a number of reference letters, they do not sufficiently demonstrate that the Petitioner has made original contributions of major significance in the field. *See* 8 C.F.R. § 204.5(h)(3)(v). According to a professor at the Speech-Language-Hearing Sciences Laboratory at the the Petitioner's "research has forged new ground in the field . . . with cutting edge research in acoustic modeling and audiovisual speech synthesis." a professor of phonetics at the in France, states that the Petitioner's "expert background as a researcher in natural language processing and speech communication has given him an enhanced understanding of developing sophisticated and highly accurate acoustic models." a professor of linguistics at the provides that his studies "on dynamic articulatory data . . . to animate sophisticated articulatory models have gained considerable traction among fellow researchers" and that he has "contributed to the development and improvement of protocols for the dynamic magnetic resonance (MR) imaging of the vocal tract." , a professor at the School of Engineering of the notes that the Petitioner's work "is of incredible interdisciplinary importance to researchers in the diverse fields spanning computational modeling, machine learning, and speech-language pathology" and that he is "an outstanding researcher" whose work has been published in "leading scientific journals."

The reference letters in the record, including those not specifically mentioned above, discuss the Petitioner's research, publication, and conference activities, and conclude, based on these endeavors, that he has satisfied the criterion. As explained, dissemination of one's scientific findings in publications or conferences is insufficient to satisfy this criterion. Rather, the Petitioner must show that his work has resulted in widespread commentary or acceptance in the field, or its impact has otherwise risen to the level of major significance in the field. *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, 8.

Some of the letters claim that the Petitioner has advanced the field. For example, a professor in the Electrical and Computer Engineering Department of the indicates that the Petitioner "has helped move the field of acoustic modeling forward by incrementally refining the components of speech production systems toward the generation of highly natural, intelligible, and personalized speech acoustics, which has vastly contributed to the understanding of more nuanced and finer details of the speech production process." This and other letters also state that scientists in the field have cited to and relied on the Petitioner's work. The letters, however, are insufficient to confirm that his impact or influence in the

field has risen to the level of "major significance." *See Kazarian*, 596 F.3d at 1122 (finding that "letters from physics professors attesting to [a petitioner's] contributions in the field" were insufficient to meet this criterion). The Petitioner has not demonstrated that his work – which may have resulted in incremental advancements in the field, as such are expected in any original research – qualifies as contributions of major significance in the field. *See* USCIS Policy Memorandum PM-602-0005.1, *supra*, at 8-9 ("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.").

The reference letters and other evidence in the record show that the Petitioner's work has added to the general pool of knowledge in the field. They are, however, insufficient to confirm widespread commentary or acceptance of his findings, that the field has regarded his work as authoritative, or that his studies have advanced the field in a significant way. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole). Letters that repeat the regulatory language but do not sufficiently explain how an individual's contributions have already influenced the field significantly are insufficient to satisfy this criterion. *See Kazarian v. USCIS*, 580 F. 3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F. 3d 1115, 1122 (9th Cir. 2010).

The record includes evidence that the Petitioner was involved in studies that were funded by well-known entities. For example, documentation shows that he was a scientist who worked on a research on the dynamics of vocal tract shaping that was funded by the and that he subsequently published an article based on his work. It does not appear that he has ever been specifically listed as a grant recipient. Regardless, receiving funding to conduct research, without more, is not a contribution of major significance in the field. Rather, the Petitioner must establish that receiving grants or other similar funding are reflective of his past works' major significance, or that his research conducted with the funding resulted in contributions of major significance in the field. He has not made such a showing. Accordingly, based on the evidence in the record, he has not shown, by a preponderance of the evidence, that he has made original contributions of major significance in the field.

> *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).

In his decision, the Director concluded that the Petitioner did not meet this criterion, because he did not demonstrate that he, as a research scientist or research associate, has performed a leading or critical role for his current and former employers. On appeal, the Petitioner does not specifically challenge the Director's finding. Rather, he claims that his work has impacted the at the , and that he "has assumed a leading role in the critical research initiatives."

To satisfy this criterion, the evidence must establish that the Petitioner is or was a leader. *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 10. If the Petitioner claims to have performed a critical role, then he must establish that the role is or was of significant importance to the outcome or standing of the organization or its activities. A supporting role may be considered "critical" if the Petitioner's

performance in the role is or was important in that way. It is not the title of the Petitioner's role, but rather his performance in the role that determines whether the role is or was critical. *Id.*

The record does not include sufficient documentation, such as letters from individuals managing [redacted] explaining the Petitioner's role or how his role is or was leading or critical. The Petitioner has not offered corroborating evidence confirming that he has held a leadership position within [redacted] or is responsible for duties that make him a leader, or that he has contributed in a way that is of significant importance to the outcome or standing of [redacted] While most individuals involved with an organization can have some impact on the entity, to establish a critical role, a petitioner must document that his or her work is crucial to the success of the entity. The Petitioner has not made such a showing here. Based on these reasons, he has not established that he 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, upon a review of the record in its entirety, we conclude that it does not support a finding that he has established the acclaim and recognition required for this classification.

The Petitioner seeks a highly restrictive visa classification, intended for individuals who are 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 academic, scholarly, research, and professional 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 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; 8 C.F.R. § 204.5(h)(2).

The record does not establish that the Petitioner qualifies for classification as an individual of extraordinary ability. The appeal will therefore be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of A-T-*, ID# 2759914 (AAO Apr. 16, 2019)