



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

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

MATTER OF P-G-

DATE: AUG. 7, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a microbial ecologist, 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 a brief asserting that she fulfills 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 the 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

At the time of filing, the Petitioner was working as a postdoctoral research associate in the Department of Entomology at University of [REDACTED]. Because the Petitioner 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 as a peer reviewer of manuscripts and 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 four additional criteria, discussed below. We have reviewed all of the evidence in the record and conclude that it does not support a finding that she satisfies the requirements of at least three criteria.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.
8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner provided evidence indicating that she is a member of Entomological Society of America (ESA), Association of Women in Science, National Postdoctoral Association, and Ecological Society

of America (ESOA)¹, but she has not demonstrated that membership in these associations required outstanding achievements, as judged by recognized national or international experts. For example, while the Petitioner offered documentation pertaining to the ESOA, including its constitution, bylaws, and information about its “Board of Professional Certification,” this evidence is not sufficient to show that her “Certified Ecologist” designation required outstanding achievements. Rather, the evidence indicates that this ESOA certification is determined based on education, experience, and “the ability to perform professional work in ecology.”² Accordingly, the Petitioner has not established that she meets this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).

As evidence for this criterion, the Petitioner presented various research articles that cite to her scholarly works. These articles are about the authors’ scientific findings and not the Petitioner.³ Here, the citations to the Petitioner’s work do not constitute published material about her consistent with this regulatory criterion.⁴ She has not established therefore that she satisfies this criterion.

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).

As evidence under this criterion, the Petitioner submitted her publications and presentations, citation evidence for her published work, and letters of recommendation from colleagues. The Director considered this documentation, but found that it was not sufficient to demonstrate that the Petitioner’s

¹ The Petitioner received “certification at the Ecologist level” from the ESOA.

² According to ESOA’s “Professional Ecologist Certifications” guidelines, the requirements for Certified Ecologist are: “A master’s or higher degree in ecology or a related science from an accredited college or university and at least two (2) years of full-time equivalent professional experience after degree; OR at least five (5) years of professional experience in addition to the education requirement for Associate Ecologist; and [i]n addition to the 1-year experience requirement for Associate Ecologist, candidates must also demonstrate the ability to perform professional work in ecology such as independent studies, complex data analyses, and publication of scientific journal articles, reports, or oral presentations must follow completion of the education requirement for qualification at the Ecologist level. Relevant experience should have been gained within the previous five (5) years.” See <https://www.esa.org/certification/guide-requirements/>, copy incorporated into the record of proceedings. In addition, we note that ESOA’s “Senior Ecologist” designation requires a higher level of education and professional accomplishment.

³ For example, the Petitioner presented an article in *Frontiers in Marine Science* entitled [REDACTED] but this article is not about the Petitioner as required by the language of 8 C.F.R. § 204.5(h)(3)(iii). Rather, on page 11, the aforementioned article briefly references her scholarly work stating: [REDACTED] (Pauli, 2017).” This article similarly references the scholarly works of hundreds of other authors.

⁴ 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 7* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (stating that the published material should be about the petitioner relating to her work in the field).

work constituted original contributions of major significance in the field. For the reasons discussed below, we agree with that determination.

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 contributions that were original 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 the field, or have otherwise risen to a level of major significance in the field.

On appeal, the Petitioner asserts that she has presented her work at “invited symposia” and authored “invited articles.”⁵ While the Petitioner contends that these invited symposia and invited articles show her expertise in the field, she does not identify which of her particular research articles or presentations offers findings that are of major significance in the field. Publications and presentations are not sufficient evidence under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of “major significance” in the field. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009); *see also Kazarian*, 596 F.3d at 1122. There is no presumption that publishing research (such as an invited review) or presenting work at an invited symposium represents a contribution of major significance in the field; rather, a petitioner must document the actual impact of her article or presentation. Here, the Petitioner has not sufficiently demonstrated that her published and presented work was majorly significant in the field.

As one type of evidence of the impact of her work, the record includes information from Research Gate showing “12 citations” to her work and “Google Scholar citation metrics” reflecting 23 “citing articles” at the time of filing. Generally, citations can confirm that the field has taken interest in a researcher’s work. While the Petitioner submitted various examples of articles that cited to her work, they do not reflect that her work was singled out as particularly important. Rather, the Petitioner’s findings were utilized as background information to the authors’ papers. In this case, the Petitioner has not demonstrated that the number of citations to her work, considered both individually and collectively, are commensurate with contributions “of major significance in the field.”

The record also contains information about the journals that published the Petitioner’s work, including their citation metrics and rankings. That a publication bears a high ranking is reflective of its overall citation rate. Ranking alone, however, does not demonstrate the influence of any particular author within the publication or show that an author’s research has had an impact within the field. 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. Here, the Petitioner has not presented sufficient documentation to demonstrate that any of her published findings rise to the level of a contribution of major significance in her field.

Similarly, while the Petitioner’s participation in symposia such as the International Congress on Entomology and International Organic Geochemistry Workshop demonstrates that her findings were

⁵ For example, the Petitioner provided documentation indicating that she gave an oral presentation in the International Workshop on Compound Specific Isotope Analysis of Amino Acids in the Department of Interactive Biology at [REDACTED]. In addition, the record shows that she was invited to submit an article for a special issue of *Food Webs*.

shared with others and may be acknowledged as original based on their selection for presentation, she has not established that the selection of her work for presentation at these conferences and the requests for her to speak, in-and-of-themselves, show the major significance of her contributions.

As another form of evidence under this criterion, the Petitioner contends that she provided letters from experts in the field who have offered testimony regarding her contributions in microbial ecology.⁶ Several of these references discussed her work involving bee-microbe interactions. For example, [REDACTED], professor in the Department of Entomology at [REDACTED] University⁷, stated that the Petitioner “was the first to apply neutral lipids analyses, a specific class of fatty acids, to detail trophic preferences among bees” and that her work “has shown that bees obtain a significant proportion of their fats from fungi and bacteria, and less from pollen.” While [REDACTED] indicated that “[t]hese results are both unexpected and especially noteworthy,” the record does not include sufficient information and evidence demonstrating that this work has affected the Petitioner’s field in a substantial way or otherwise constitutes a contribution of major significance in the field. Likewise, [REDACTED] professor of entomology at University of [REDACTED] asserted that the Petitioner’s “findings provide compelling evidence that microbes not only serve as mutualists, but that they form an important part of bee diet.” [REDACTED] further noted that these “highly novel results suggest that bee survivorship is inextricably related to their microbial symbionts,” but the Petitioner has not sufficiently demonstrated that the impact of these findings rises to the level of a contribution of major significance in the field.

With respect to the Petitioner’s graduate research relating to mercury accumulation in popular game fish, [REDACTED] professor of geological sciences at the University of [REDACTED], indicated that the Petitioner’s work “reported on previously undocumented aspects of habitat-specific foraging among fish populations as an underlying mechanism for mercury poisoning.” [REDACTED] further stated that the Petitioner’s “findings have developed an integrated view of food webs that include the function of microbial communities in pollutant cycling” and that her “results represent a major frameshift in mercury toxicity analysis.” We recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, presentation, funding, or academic credit, but not every finding that broadens knowledge in a particular field is tantamount to a scientific contribution of major significance in that field. Here, the Petitioner has not shown that her findings have been widely implemented or otherwise represent a scientific contribution of major significance in her field.

The record includes additional recommendation letters from the Petitioner’s peers. Although these remaining letters praise her work, they do not demonstrate how her contributions are “of major significance in the field.” As discussed above, the Petitioner has not shown through her citation history or other evidence that her work, once published or presented, has been of major significance in the field. While the selection of the Petitioner’s articles in professional journals or at conference proceedings verifies the originality of her work, it does not necessarily reflect that her research is

⁶ While we discuss a sampling of the recommendation letters, we have reviewed and considered each one.

⁷ The record indicates that [REDACTED] is collaborating on a multi-year project with the Petitioner and her coworkers at [REDACTED] and that they coauthored an article, entitled [REDACTED].

⁸ The record reflects that the Petitioner received her Ph.D. in Biological Sciences from the University of [REDACTED] in 2015 and that [REDACTED] served on her dissertation committee.

considered of major significance. Without sufficient evidence demonstrating that her work constitutes original scientific contributions of major significance in the field, the Petitioner has not established that she meets 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 contends that she has performed in a leading or critical role for ESA as a member of its “position statement writing team.” While the Petitioner has presented documentation indicating that ESA has a distinguished reputation, for the reasons discussed below, the evidence is not sufficient to demonstrate that the Petitioner’s role for that organization was leading or critical.

For a leading role, the evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.⁹ 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.¹⁰

The record includes a September 2018 letter from [redacted] for ESA, stating that the Petitioner serves as an “ESA position statement writing team member.” [redacted] further indicated: “Writing Committees perform a central role in drafting the Society’s Position Statements on issues of critical importance on which more scientific education is required. Position statements help define the advocacy goals and advocacy boundaries for the Society, which enables ESA to respond consistently and quickly to rapidly changing policy developments.”

In addition, the Petitioner submitted information from the ESA’s website indicating that writing committees are overseen by the “ESA position statements” committee, a subcommittee to the ESA Science Policy Committee:

The ESA Science Policy Committee . . . is charged with leading the effort to establish a science policy agenda for ESA that will guide and focus the Society’s outreach efforts with governments, NGOs, and other organizations. The committee’s tasks included developing a framework for gathering input from throughout the Society, and determining how actions may benefit the Society and its members. The committee consists of a Chair (ESA Past-President), a representative from each Section and Branch, one student member, two Ad hoc members, one of whom is also the Society’s EPA-OPP Liaison There are two subcommittees -- one that supervises the Science Policy Fellows program and one that oversees the ESA position statements authoring and approval process (including working with the writing committees).

The record contains further information from ESA about its position statements, science policy writing committees, and the application process for volunteers seeking to serve on the position statement

⁹ See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

¹⁰ *Id.*

writing committee. The Petitioner, however, has not shown that her role on the position statement writing team is leading or critical to ESA overall. Although the letter from [] confirms the Petitioner's service on the ESA position statement writing team, it does not indicate that the Petitioner ever held a leadership position within the ESA. Further, as it relates to a critical role, the evidence is not sufficient to show that the Petitioner has contributed to the success or standing of ESA. While [] contends that Petitioner rendered a "critical contribution" to the society, he did not provide specific examples of how her service as a writer rose to a level consistent with a critical role. The Petitioner did not demonstrate, for example, that her specific work has significantly influenced ESA's science policy agenda. For these reasons, the Petitioner has not shown that she performed in a leading or critical role for ESA. Accordingly, she has not established 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 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 and recognition of her work are indicative of the required sustained national or international acclaim or that they are 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. The appeal will 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 P-G-*, ID# 3752874 (AAO Aug. 7, 2019)