



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

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

MATTER OF T-B-

DATE: AUG. 13, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a psychologist, 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 mirroring her prior arguments made in response to the Director's request for evidence (RFE) that she meets four additional 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 claimed employment as a program coordinator with [REDACTED] since 2018. 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 determined 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 a journal. 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, as indicated above, the Petitioner repeats her arguments that she made in response to the RFE without addressing the Director’s specific findings or identifying any erroneous conclusion of law or statement of fact. Regardless, 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).*

In order to satisfy this regulatory criterion, a petitioner must establish her receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.<sup>1</sup> The Director determined that the Petitioner's receipt of medals for the "Patriot of Russia" and "For the Promotion of Education" did not qualify for this criterion. Specifically, the Director found that the Petitioner did not demonstrate the medals' recognition for excellence in her field, psychology.

The record contains background information reflecting that the "Patriot of Russia" and "For the Promotion of Education" medals "[are] awarded for a great contribution to the improvement of the system of patriotic education of Russian citizens and the implementation of patriotic education programs" and "for the significant expert and consultative activity in the field of education of youth." Here, the evidence indicates acknowledgment of the Petitioner's work in the area of education. Moreover, the Petitioner did not establish that her field of endeavor, psychology, recognizes the medals as national or international prizes or awards for excellence consistent with this regulatory criterion.

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

*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).*

In order to meet this criterion, the Petitioner must demonstrate that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.<sup>2</sup> The Director found that the Petitioner's membership with the All-Russian Junior Academy of Sciences (ARJAS) did not qualify for this criterion, as she did not show that the association requires outstanding achievements of its members.

The record reflects that the Petitioner submitted a letter from [REDACTED] of ARJAS, who indicated that membership requires: active participation in the organization, unique competence and support of gifted children, achievements in the development of ideas, knowledge of informational technologies, experience in the support and coordination of creative directors, and experience in authoring publications. Here, the Petitioner did not demonstrate that ARJAS' membership requirements of participation, competence, knowledge, and experience rise to the level of "outstanding achievements" required by this regulatory criterion. In addition, the Petitioner did not establish that membership is judged by recognized national or international experts.

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

<sup>2</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 6 (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual's distinguished achievements in original research).

As such, the Petitioner did not demonstrate 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).

The regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that she has made original contributions of major significance in the field.<sup>3</sup> 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 Director concluded that the citations to the Petitioner's published works, conference presentations, and recommendation letters did not establish her eligibility for this criterion.

The record reflects that the Petitioner provided evidence showing that her cumulative citations for her published works received 69 citations, which included 24 self-citations, resulting in 45 independent citations. However, the Petitioner did not demonstrate how her cumulative number of citations identifies which of her works represent contributions of major significance in the field. We note that aggregate citation figures tend to reflect a petitioner's overall publication record, rather than identifying which research the field considers to be majorly significant. In addition, the Petitioner did not articulate the significance or relevance of these citation numbers. For example, she did not demonstrate that these citations are unusually high in her field or how they compare to other articles that the field views as having been majorly significant. Although her citations are indicative that her work has received some attention from the field, the Petitioner did not establish that her citation numbers represent majorly significant contributions in the field.<sup>4</sup> Here, she has not sufficiently shown that her citations for any of her published articles are commensurate with contributions of major significance.

The record reflects that the Petitioner submitted three article excerpts that cited to her work. However, a review of those articles do not show the significance of her work in the overall field beyond the authors who cited to her work. Likewise, the Petitioner provided evidence of her participation and presentation at conferences but did not demonstrate that they resulted in 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.

The Petitioner submitted letters as evidence of her contributions. The record includes a letter from [redacted] managing partner at [redacted] LLC, who claimed that the Petitioner's "outstanding expertise in multicultural dialogue methodology provided a critical contribution to every phase of training development and implementation process" and "[t]he application of those technologies effectively results in the significant increase of quality of the multicultural dialogue which results in improved wellbeing and decreased cross cultural conflict and misunderstanding."

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<sup>3</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8.

<sup>4</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9 (providing an example that 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 individual's work as authoritative in the field, may be probative of the significance of the person's contributions to the field of endeavor).

However, [redacted] did not provide specific details explaining how the Petitioner's contributions significantly impacted or influenced the psychology field.

Similarly, the Petitioner submitted a letter from [redacted], the deputy director of [redacted] [redacted] who indicated that the Petitioner developed and oversaw a child suicide prevention program that has "been successfully implemented" and "are now being followed by specialists nationwide and abroad." Again, [redacted] indicated broad claims without detailed information showing that her model has influenced the field in a major way.

Here, the letters do not contain detailed, probative information that explain how her original contributions are tantamount to major significance in the field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.<sup>5</sup> On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.<sup>6</sup> 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.

*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 Director found that the Petitioner's role with [redacted] did not fulfill this criterion. As it relates to 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.<sup>7</sup> 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.<sup>8</sup>

The letter from [redacted] discussed above, indicated that the Petitioner was a program director. However, [redacted]'s letter does not establish that the Petitioner held a leading position, nor does it contain specific information signifying her essential role for the institution.<sup>9</sup> For instance, [redacted] did not describe the hierarchy and structure of [redacted] and compare the

<sup>5</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

<sup>6</sup> *Id.* at 9. See also *Kazarian*, 580 F.3d at 1036, *aff'd* in part 596 F.3d at 1115 (holding that 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).

<sup>7</sup> See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

<sup>8</sup> *Id.*

<sup>9</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 10 (stating that letters from individuals with personal knowledge of the significance of a petitioner's leading or critical role can be particularly helpful in making this determination as long as the letters contain detailed and probative information that specifically addresses how the role for the organization or establishment was leading or critical).

Petitioner's position as a program director to others within the institution overall. Moreover, while [redacted] discussed the Petitioner's involvement with several projects, she did not show how those projects contributed to the success or standing of [redacted]. Further, although the Petitioner provided an unidentified document claiming to be about the mission and background of the institution, she did demonstrate that [redacted] enjoys a distinguished reputation.<sup>10</sup>

Accordingly, the Petitioner did not establish 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 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 reasons discussed above, the Petitioner has not demonstrated his eligibility 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, the petitioner bears the 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 T-B-*, ID# 3850200 (AAO Aug. 13, 2019)

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<sup>10</sup> *Id.* at 10-11 (defining *Merriam-Webster's Dictionary* definition of "distinguished" as marked by eminence, distinction, or excellence).