U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF F-Z-

DATE: FEB. 7, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner seeks classification as an individual of extraordinary ability in the field of materials science. *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 a third criterion that relates to original contributions of major significance in the field, 8 C.F.R. § 204.5(h)(3)(v), and 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 record, including the Petitioner's resume, shows that he received his Ph.D. degree in materials science in 2013, and has been working as a postdoctoral research associate at the [redacted] since 2014. According to his 2018 statement, his research area relates to "the development of high capacity energy storage devices, including lithium ion battery, sodium ion battery and lithium-sulfur battery."

The Director concluded that the Petitioner meets the participation as a judge criterion under 8 C.F.R. § 204.5(h)(3)(iv) and the authorship of scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi). The record supports this conclusion. The Petitioner has presented documentation from [redacted] professional publications, confirming that he served as their reviewer and reviewed manuscripts in 2016 and 2017. In addition, the record shows that he has authored scholarly articles that are published in professional journals, including [redacted] that appeared in *Energy & Environmental Science*, and [redacted] that appeared in *ACS Nano*. Although the Petitioner has satisfied two criteria under 8 C.F.R. § 204.5(h)(3)(iv) and (vi), he has not satisfied the initial evidence requirements of meeting 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.

On appeal, the Petitioner asserts that he meets a third criterion under 8 C.F.R. § 204.5(h)(3)(v), which requires him to present "[e]vidence of [his] original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 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 of materials science. 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.

The record is insufficient to demonstrate, by a preponderance of the evidence,[2] that the Petitioner has satisfied the original contributions of major significance criterion under 8 C.F.R. § 204.5(h)(3)(v). On appeal, he claims that the number of citations his scholarly articles have garnered and the reference letters discussing his research sufficiently establish that he meets this criterion. We disagree.

According to his January 2018 statement, the Petitioner has "published 14 peer-reviewed articles, 5 of them as the first author, in the leading journals in [the] field, including 1 article in *Advanced Materials* [and] 1 article in *ACS Nano*." Scientists from different parts of the world have referenced his work. Printouts from scholar.google.com, including those dated May 2018, show that his most cited work, published in 2013, has garnered approximately 500 citations, while his other articles, published between 2012 and 2017, have received between a few hundreds to a handful of citations. Materials from Clarivate Analytics indicate that the citation rate of some of his articles is comparatively high in the field of materials science. Citation to one's work alone, however, is insufficient to confirm contributions of major significance in the field. Rather, we must consider whether the Petitioner's articles "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 [his] work as authoritative in the field." USCIS Policy Memorandum PM 602-0005.1, *supra*, 8. Such considerations may confirm that his research meets the original contributions of major significance criterion under 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner has presented incomplete copies of articles that have cited to his work. These documents do not verify that his articles have been cited as authoritative in the field or have influenced the field in a significant way. Most of the articles briefly reference his work, among many other studies, and do not include an in-depth discussion on his research. For example, the incomplete copies of the 2016 *Advanced Materials* article and the 2016 *Advanced Functional Materials* article

[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, *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* 4 (Dec. 22, 2010), http://www.uscis.gov/laws/policy-memoranda.

show that each article cites the Petitioner's 2013 research once, in the respective introductory paragraph that includes approximately 25 citations to other studies. The Petitioner has not demonstrated that brief references to his work confirm that it constitutes contributions of major significance.

Although some articles include more information about the Petitioner's work, they do not establish that his research has been widely accepted and implemented throughout the field or has otherwise risen to a level of major significance in the field. Rather, these articles acknowledge that his studies have added to the general pool of knowledge, which, without evidence of significant impact or influence in the field, is insufficient to satisfy this criterion.

The reference letters in the record similarly are insufficient to demonstrate that the Petitioner has made original contributions of major significance in the field. *See* 8 C.F.R. § 204.5(h)(3)(v).[3] These letters discuss in detail the nature of the Petitioner's studies, and claim that his work has benefited the field. For example, a professor at of Science and Technology in China, provides that the Petitioner's research "has empowered many other sciences [*sic*] to construct their own experiments and to measure the merit of their findings." a professor at the states that the Petitioner's work "has proven very valuable for facilitating advancements in [the] field" of materials science. a professor at the indicates that the Petitioner "has opened new avenues for further innovations in the development of batteries and battery components." a professor at notes that the Petitioner "has introduced new methods, chemical processes, and elements that greatly improve battery function." the editor-in-chief of the maintains that the Petitioner's "achievements to date include developing a facile, tunable, and cost-effective method of synthesizing high-capacity anode materials."

These letters, while including information about the Petitioner's research, are insufficient to confirm that its 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 led to incremental improvements in knowledge and understanding 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 above and other letters not specifically discussed, as well as 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 and acceptance of his work, or that the field of materials science has regarded his research as authoritative. *See Visinscaia*, 4 F. Supp. 3d at

[3] While not every letter in the record is discussed, all were considered in reaching our conclusion.

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*, 580 F.3d at 1036.

In his January 2018 statement, the Petitioner indicates that he has "published additional articles in major conference proceedings" and "authored a book chapter." These activities, as well as the publication of his articles, some of them in reputable journals, illustrate that he has disseminated his work in the field. The Petitioner, however, has not submitted sufficient evidence of the impact or influence that his work has had in the field after dissemination. As such, he has not shown that these undertakings satisfy this criterion. Publications and presentations are not sufficient under this criterion absent evidence that they were of "major significance" in the field. *See Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115. Based on the evidence in the record, the Petitioner has not shown, by a preponderance of the evidence, that he has made original contributions of major significance in the field of materials science.

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).

For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of F-Z-*, ID# 2034743 (AAO Feb. 7, 2019)