



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

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

MATTER OF A-A-A-

DATE: JAN. 9, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a postdoctoral scholar and environmental sustainability fellow, 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 one of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional documentation and a brief, arguing that he 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

At the time of filing, the Petitioner was working as a visiting fellow and senior research scholar at [REDACTED] in the field of life and environmental science.<sup>1</sup> He states that his research is aimed at studying the “social aspects of science & technology in sustainable agriculture, renewable energy, climate change & health innovation in developing countries.” Because he has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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<sup>1</sup> The Petitioner has provided two CVs, indicating he was previously a research fellow at [REDACTED] School of Government from 2014 until 2015, when he earned his master’s degree in public policy, and a graduate student and research assistant at the [REDACTED] from 2004 until 2007, when he earned his Ph.D. in biology. The record does not contain a copy of the Petitioner’s degree certificates, but the CVs indicate, respectively, that his doctoral degree is in “Biological Sciences” and “Applied Toxicology.”

A. Evidentiary Criteria

The Director found that the Petitioner met only one of the initial evidentiary criteria, judging under 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner's documentary evidence indicates that he has peer reviewed manuscripts for several journals.<sup>2</sup> Accordingly, we agree with the Director that the Petitioner fulfilled the judging criterion.

On appeal, the Petitioner maintains that he meets six additional criteria, discussed below: the awards criterion at 8 C.F.R. § 204.5(h)(3)(i), the membership in associations criterion under 8 C.F.R. § 204.5(h)(3)(ii), the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii), the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v), the scholarly articles criterion under 8 C.F.R. § 204.5(h)(3)(vi), and the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). He further argues that he has demonstrated his sustained national or international acclaim and that he is among the small percentage at the very top of the field of endeavor. 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).*

The Petitioner contends that he meets this criterion, based upon his receipt of a doctoral student award by the [REDACTED] a postdoctoral fellowship, and several other student awards and research grants during the course of his academic career. Initially, the Petitioner submitted a certificate reflecting that [REDACTED] awarded him a student prize for the best poster presentation at its annual conference in 2008. His letter indicated that he presented his final doctoral research at the conference, attended by "many international students including from Europe and America." Within his response to the Director's request for evidence (RFE), he offered a letter from [REDACTED] president [REDACTED] who explains that the prize is "judged by a panel of senior, eminent toxicologists from the [REDACTED] for the "originality and quality of the work" and "clarity of the presentation." He states that "[a]ny student who is a member of the [REDACTED] and presenting a poster at the annual congress" is eligible for consideration," that [REDACTED] "draws its membership mainly from the UK," and that any prize awarded by [REDACTED] would be "well regarded globally."

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<sup>2</sup> For example, the Petitioner has reviewed manuscripts for *Food Policy* and *Biological Conservation*.

Although the Petitioner demonstrated his receipt of the aforementioned prize from [REDACTED] he did not establish that it meets the requirements of this criterion. The Petitioner has not demonstrated that the award, which the record indicates is limited to students rather than open to established professionals, is nationally or internationally recognized as an award or prize for excellence in the field.<sup>3</sup>

Similarly, the Petitioner did not establish that his postdoctoral fellowship with the [REDACTED] grant, or other competitive research grants and student awards are tantamount to nationally or internationally recognized prizes or awards for excellence in the field, consistent with this regulatory criterion. On appeal, the Petitioner provides a letter from [REDACTED] program manager for [REDACTED] who confirms that between 2010 and 2012 he was a [REDACTED] postdoctoral fellow, and describes the program as “highly competitive” and providing “promising, highly qualified young researchers” the opportunity to conduct advanced research at Japanese universities and other research institutions. The Petitioner also asserts that he received a [REDACTED], and research funding from the [REDACTED]. The record does not contain corroborating documentation of these items of funding. Regardless, only other students – not recognized experts in the field – compete for such funding. The Petitioner has not shown that receiving the noted funding for his research and academic training constitutes receipt of a nationally or internationally recognized prize or award for excellence in the field of endeavor. Accordingly, the Petitioner did not demonstrate that he 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).

On appeal for the first time, the Petitioner contends that he satisfies this criterion based on his “membership as an advisory board member” with the [REDACTED] in February 2013, and the [REDACTED] since October 2017.<sup>4</sup>

The Petitioner’s CV indicates that he was one of ten experts invited by [REDACTED] “to establish [the] biotechnology centre of excellence in Africa,” also referred to in the record as the [REDACTED] at the [REDACTED]. He provides a notice for the 2013 inaugural meeting of the [REDACTED] International Scientific Advisory Board, and a 2014 job posting

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<sup>3</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>4</sup> Although he also asserts that he is “a member of the most recognized and reputable organization in the world, the United Nations,” we take notice of the fact that both the United Nations and [REDACTED] confer membership on states, not persons.

for executive director of [REDACTED]. However, the Petitioner has not documented his membership in [REDACTED] or its International Scientific Advisory Board. Regardless, the job posting for the [REDACTED] executive director lists certain educational and professional requirements, such as a doctoral degree, and five years of postdoctoral experience in biotechnology. Such requirements are not “outstanding achievements” in the field.

Regarding [REDACTED] the Petitioner’s CV indicates that since October 2017 he has been an advisor with “The Expert Advisory Group-Support of advisory and Capacity-building Services to [REDACTED] [REDACTED]. The record does not contain information pertaining to the membership requirements of the claimed [REDACTED] advisory group, or evidence establishing his membership in the group at the time of filing the petition on May 10, 2017.<sup>5</sup> Accordingly, the Petitioner did not demonstrate that he fulfills 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).*

The Petitioner contends that he is “continually and currently being relied upon” and “quoted as an expert” in published materials in the field. He submitted a 2013 publicity release in SciDev.Net titled “[REDACTED]” pertaining to his study of GMO regulation in Africa that would soon be published in *Food Policy*. The publicity release summarizes some of the findings of that study and includes quotes from the Petitioner.<sup>6</sup> On appeal, he offers a letter from Ben Deighton, managing editor of SciDev.Net, stating that the website published his article “[REDACTED]” in 2011 and quoted him as an expert in two other news items published in 2013. Mr. Deighton describes SciDev.Net as “the world’s leading online source of news about science, technology and innovation for development,” reaching “100 million people” annually.

The aforementioned articles are not about the Petitioner, therefore, they do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-00820 at \*1, \*7 (D. Nev. Sept. 2008) (upholding a finding that articles about a show are not about the actor). Further, the record does not contain probative evidence showing that the submitted article appeared in major media. Self-promotional material is not sufficient to demonstrate a publication’s status as major media. *See*

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<sup>5</sup> The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

<sup>6</sup> The Petitioner also offered an article published in [REDACTED] 2017 in *Nature Climate Change*, briefly describing his study of climate change adaptation in Africa in *Ecological Economics*. However, this article was published after the date the petition was filed on May 10, 2017. As discussed previously, the Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication.

*Braga v. Poulos*, No. CV 06-5105 SJO (FMOX), 2007 WL 9229758, at \*7 (C.D. Cal. Jul. 6, 2007), *aff'd*, 317 F. App'x 680, 681 (9th Cir. 2009) (concluding that this office did not have to rely on a petitioner's unsubstantiated assertions). The Adjudicator's Field Manual (AFM) at Chapter 22.2(i)(1)(A) discusses that to demonstrate a publication qualifies as a professional or major trade publication, or other major media, a petitioner should "identify the [publication's] circulation (online or in print) and intended audience of the publication, as well as the title, date and author of the material."<sup>7</sup> The Petitioner did not submit material establishing the circulation statistics for the website SciDev.Net website, nor did he provide other circulation data to compare with those of this publication. Without additional corroboration, the Petitioner has not illustrated that the article was published in major media.<sup>8</sup> Accordingly, the Petitioner did not demonstrate that he fulfills 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).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he 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 he "has completed original research and is a renowned expert within his field" who "has the support of other well-known and respected professionals who have commented on his work and abilities." Although he provided evidence reflecting the originality of his work through co-authored publications reporting his findings, he has not demonstrated that the overall field views his research and work as being majorly significant.

The Petitioner argues that he "has more than 375 citations to his work," and that the top-cited article, published in *Energy Policy* in 2013, "has been cited 66 times alone." He also emphasizes that *Energy Policy* "is a high-impact journal," and that *Food Policy*, in which he was published in 2013, "is the top journal worldwide by simple impact factor in the field of agricultural economics."<sup>9</sup> 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 his 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.

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<sup>7</sup> Available at <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-6423.html#0-0-0-417>, accessed on January 7, 2019.

<sup>8</sup> The Petitioner has not claimed, or provided evidence, showing that the article appeared in professional or major trade publications.

<sup>9</sup> The Petitioner submitted evidence reflecting that he published approximately seventeen journal articles and three book chapters. In addition, he provided several materials published after the date the petition was filed on May 10, 2017, including articles published in the journals *Nature Biotechnology*, *Ecological Economics*, *World Development*, and the cover page of a book he co-edited, titled "[REDACTED]". Further, he submitted evidence pertaining to a book he is co-editing which has not yet been published, tentatively titled "[REDACTED]". As mentioned previously, the Petitioner must demonstrate his eligibility at the time of filing. Accordingly, we will not consider these additional items.

§ 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 establish a contribution of major significance in the field.

Although his citations show that his research has received some attention from the field, the Petitioner did not establish that the number of citations to his individual papers demonstrate their “major significance.” For instance, he has not submitted samples of other articles that cited to his work, to distinguish his written work from the other articles cited, or other evidence showing the significance of his research to the overall field beyond the authors who cited to his work.<sup>10</sup> Here, the Petitioner has not shown that his citations rise to a level of “major significance” consistent with this regulatory criterion.

In addition, the Petitioner states that he “has been a contributor and a relied upon member of various United Nations groups, projects, and initiatives.” The record indicates that he contributed the findings of his postdoctoral research with the [REDACTED] to the 2015 and 2016 editions of the [REDACTED] which invited scientists and researchers “to submit science briefs that highlight research findings or solutions relating to sustainable development.” The evidence shows that the Petitioner’s co-authored article, [REDACTED] was of 1 of 187 science policy briefs published in the 2015 edition and 1 of 97 briefs published in the 2016 edition. Although those reports contain his published article, he did not establish that inclusion in the publications demonstrates that his research paper is considered to be of major significance to the field. The Petitioner did not provide evidence, for example, showing that the [REDACTED] article led to widespread coverage of and interest in his work and research.

Further, while the Petitioner notes that the record contains recommendation letters praising him for his original contributions, the letters do not demonstrate their major significance to the field. The letters briefly recount his research and findings, indicate their publication in at least one high-impact journal, and note their presentation at international conferences and conventions. Although they detail the novelty of the Petitioner’s research, the authors do not contend that its impact on the field rises to the level required by this criterion, or otherwise provide specific examples of contributions that are indicative of major significance. For instance, his research colleagues and co-authors [REDACTED], at [REDACTED] and [REDACTED] formerly at [REDACTED] described his work examining the capacity and financing for climate change adaptation and mitigation in Africa, but they did not explain the significance of his 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

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<sup>10</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9; 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).

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. 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 he has made original contributions of major significance in the field.

*Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.* 8 C.F.R. § 204.5(h)(3)(vi).

The record contains evidence that the Petitioner has published scholarly articles in the *Journal of Genetic Engineering and Biotechnology*, *Journal of Environmental Management*, *Journal of Agricultural and Environmental Ethics*, *African Journal of Biotechnology*, and in the journals *Food Policy*, *Energy Policy*, *Technology in Society*, *Biodiversity and Conservation*, and *Environmental Science & Policy*. We find that the Petitioner 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).

On appeal for the first time, the Petitioner claims that he satisfies this criterion based on his "advisory roles" with [REDACTED] in February 2013, and the [REDACTED] since October 2017, as well as his participation in international conferences, multi-year research studies, and book projects. The scope of this evidentiary criterion focuses on the relative importance of the Petitioner's role for distinguished organizations. In general, a leading role is evidenced from the role itself, and a critical role is one in which the petitioner contributed in a way that that is of significant importance to the outcome of the organization or establishment's activities.<sup>11</sup> The Petitioner has not documented his role with [REDACTED] International Scientific Advisory Board, or provided an organizational chart or other evidence to distinguish his role from that of other advisors, and demonstrate that he performed in a leading or critical role for [REDACTED].

Regarding the [REDACTED], the Petitioner's CV indicates that since October 2017 he has been an advisor with "The Expert Advisory Group-Support of advisory and Capacity-building Services to [REDACTED] [REDACTED]. The Petitioner has not provided evidence of his role with [REDACTED], and his CV indicates he performed in this role after the date the petition was filed on May 10, 2017. As we stated previously, the Petitioner must demonstrate his eligibility at the time of filing, therefore, we will not consider this evidence in determining whether he satisfies this criterion. Finally, with regard to the additional roles that the Petitioner references, the plain language of the regulation requires that the leading or critical role be "for organizations or establishments." The Petitioner did not identify organizations or establishments for which he played a critical role through his conferences, research studies, and book projects. Accordingly, the Petitioner did not establish that he satisfies this criterion.

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<sup>11</sup> See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.



### 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 his 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 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 he qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is dismissed.

Cite as *Matter of A-A-A-*, ID# 1883186 (AAO Jan. 9, 2019)