



U.S. Citizenship
and Immigration
Services

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

MATTER OF Y-Y-

DATE: MAR. 6, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a postdoctoral researcher, 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 additional documentation and 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 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 Postdoctoral Program Fellow at the [REDACTED]

[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 two 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 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 record includes an October 2016 letter from [REDACTED] Director of the [REDACTED] [REDACTED] informing the Petitioner that she was selected for a [REDACTED] Fellowship at the [REDACTED]. This letter further indicates that [REDACTED] “is extremely selective, and this Fellowship is offered to you in recognition of your highly ranked academic and scientific achievement. You will work in collaboration with [REDACTED] who will serve as your research advisor.” In addition, the Petitioner submitted information from [REDACTED] website discussing the review process and evaluation standards for [REDACTED] applications. This information states that “[p]ostdoctoral applicants are evaluated on the basis of demonstrated *ability as a student* and on their *potential for making contributions* as an independent scientist” (emphasis added). The aforementioned evidence shows that the Petitioner’s [REDACTED] Fellowship is a scientific training opportunity “to engage in ongoing [REDACTED] research projects at a [REDACTED] or at a [REDACTED]-affiliated research institute” rather than a prize or award “for excellence in the field of endeavor.”

On appeal, the Petitioner presents a July 2018 letter from [REDACTED] asserting that the [REDACTED] Fellowship “is extremely selective and grants the fellowship only to talented scientists who have demonstrated excellence in their research areas.”¹ [REDACTED] further contends that this fellowship “is considered one of the most prestigious national awards in the scientific fields,” but the record does not include media coverage or other supporting evidence to corroborate his claim. The Petitioner’s evidence therefore is not sufficient to show that her [REDACTED] Fellowship constitutes a nationally or internationally recognized prize or award for excellence in the field. Accordingly, she has not established that she meets 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, summaries of her research papers available on the [REDACTED] [REDACTED] Division website, and letters of recommendation from colleagues. The Director considered this documentation, but found that it was not sufficient to demonstrate that the Petitioner’s 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

¹ The record indicates that 33 “[n]ew [REDACTED] Fellows started between July and September 2017.”

throughout the field, have remarkably impacted the field, or have otherwise risen to a level of major significance in the field.

As one type of evidence of the impact of her work, the record includes a 2018 Google Scholar citation report indicating that her 2010 article entitled “ [REDACTED] ” was “cited by 56.” Her next most cited articles, “ [REDACTED] ” (2015) and “ [REDACTED] ” (2015), were cited 38 and 29 times respectively. Regarding the Petitioner’s remaining articles published from 2010 until 2018, the aforementioned Google Scholar report reflects that they have been cited 25, 17, 17, 3, 2, and 2 times respectively.²

On appeal, the Petitioner argues that the Director erred in comparing her citation information with that of 12 other researchers whose names appear in the record. She provides letters from colleagues asserting that the Director’s analysis did not take into consideration the nature and size of her specialty areas or sample selection bias. We agree that comparison of the Petitioner’s cumulative citation record to that of other scientists or researchers in the record is not appropriate in determining whether she has made original contributions of major significance in the field. Rather, the evaluation of the Petitioner’s overall citation evidence relative to others in her field would be more relevant in a final merits determination to demonstrate her sustained national or international acclaim, that she is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation.

The Petitioner maintains that she has published research articles in top-ranked³ and highly circulated international journals and that the InCites Essential Science Indicators (IESI) citation rate for six of her papers is high relative to others in her field. For example, she offered information from IESI indicating that her paper, entitled “ [REDACTED] ” is in the top 1% most cited by subject area for the year in which it was published, having been cited more than 30 times since 2015. In addition, three of her papers are in the top 10% and two are in the top 20% most cited by subject area for the respective years in which they were published. The comparative ranking of a paper’s citation rate, however, 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 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.

² Seven of her articles listed in this report do not show any citations.

³ 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.

Generally, citations can confirm that the field has taken interest in a researcher's work. The Petitioner submitted various examples of articles that cited to her work; however 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 citations to her work, considered both individually and collectively, are commensurate with contributions "of major significance in the field."

The Petitioner further indicates that she has presented her work at 15 conferences held by the [REDACTED]. In addition, she provided an email inviting her to speak on her research topic at the [REDACTED] in [REDACTED] 2018. This conference post-dates the filing of the petition and therefore does not show her eligibility under this criterion at the time of filing. See 8 C.F.R. § 103.2(b)(1). Regardless, while participation in these scientific conferences demonstrates that the Petitioner's findings were shared with others and may be acknowledged as original based on their selection for presentation, she has not established that the selection of her papers for presentation at such conferences and the request for her to speak at the [REDACTED] in-and-of-themselves show the major significance of her contributions.

The Petitioner also points to documentation showing that she received two invitations to write book chapters relating to geospatial data and dust storms. She previously provided emails from [REDACTED] and [REDACTED] asking her to contribute a chapter to their publications.⁴ 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 every published article, book chapter, or conference presentation is 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 demonstrated that her published and presented work was majorly significant in the field.

In addition, the record includes three articles discussing the Petitioner's research projects at [REDACTED] and [REDACTED].⁵ Specifically, the Petitioner's work was reported in [REDACTED] publication describing "research uses of Earth observing data from the [REDACTED]"), [REDACTED] and [REDACTED] (quarterly newsletter). These three articles reported on the Petitioner's work, but she has not established that this level of coverage demonstrates that the impact of her work rises to a level of major significance in the field.⁶

⁴ With respect to her published work, the regulations contain a separate and distinct criterion concerning the authorship of scholarly articles in professional publications at 8 C.F.R. § 204.5(h)(3)(vi), a category that she has already satisfied.

⁵ The Petitioner received her Ph.D. in Atmospheric and Oceanic Sciences from [REDACTED] in 2017.

⁶ The aforementioned articles do not demonstrate the significance of her work beyond her research institutions. For example, the institutions where the Petitioner performed her research [REDACTED] are those that wrote about her findings. 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),

Likewise, while the Petitioner submitted summaries of three of her research papers available on the [REDACTED] Division website, she did not show that having her articles appear on this website constitutes a contribution of major significance to the overall field.⁷

As another form of evidence under this criterion, the Petitioner contends that experts in the field have offered testimony regarding her contributions of major significance in “dust climatology, vegetation-climate interactions, and statistical consulting on environmental management.”⁸ For example, [REDACTED] Associate Director and Senior Scientist at the [REDACTED] at [REDACTED],⁹ stated that the Petitioner “examined spatio-temporal variability in Middle East dust storm activity through ground observations, radiometric measurements, and remote sensing” and that her findings “led to her development of a seasonal prediction model for Saudi Arabian dust storm activity.” Likewise, [REDACTED] a research scientist at [REDACTED] asserted that “one of [the Petitioner’s] most recognized contributions in the mineral dust aerosols area is her unprecedented statistical model for seasonal predictions of Saudi Arabian dust storm activities.” In addition, [REDACTED] noted that “[t]his research focused on a narrow topic in an understudied area with a relatively small research community,” but the evidence does not show that the impact of the Petitioner’s work rises to the level of a contribution of major significance in the field.

With respect to the Petitioner’s research relating to vegetation-climate interactions, [REDACTED] associate professor in the Department of Atmospheric Sciences at [REDACTED] at [REDACTED], indicated that the Petitioner “devised a first of its kind method to assess terrestrial impact on regional climate using short records of satellite-based vegetation index.” [REDACTED] further stated that this method has “emerged as the best because it is able to isolate the effect of land on temperature and precipitation, while using shorter datasets than previously possible.” While [REDACTED] asserted that the Petitioner’s work represented a significant and noteworthy achievement, the record does not demonstrate that her method has affected the field of atmospheric science in a substantial way or that her work otherwise constitutes a contribution of major significance in the field.

Regarding the Petitioner’s work relating to statistical consulting on environmental management, [REDACTED] a professor at [REDACTED] in China¹⁰, indicated that “[o]ne of the

<https://www.uscis.gov/policymanual/HTML/PolicyManual.html>; 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).

⁷ The screenshots the Petitioner provided from this website reflect an option allowing online visitors to “Submit Highlight.” She has not presented supporting evidence illustrating the significance of having one’s research papers highlighted on this website.

⁸ While we discuss a sampling of the recommendation letters, we have reviewed and considered each one.

[REDACTED] indicates that he “advised [the Petitioner] for both her Master’s and Ph.D. degrees” at [REDACTED] [REDACTED] stated that he was the Petitioner’s “research advisor when she was pursuing her bachelor’s degree in environmental engineering at [REDACTED]

Petitioner's most notable contributions was her innovative utilization of data envelopment analysis on annual statistics of 46 Chinese cities to discover that [gross domestic product] per capita, city scale, and industrial structures are substantial factors that exert significant influence on urban environmental sustainability." 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 record does not show that the Petitioner's 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 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.

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,

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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 Y-Y-*, ID# 02279924 (AAO Mar. 6, 2019)