



U.S. Citizenship
and Immigration
Services

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

MATTER OF M-A-R-

DATE: MAR. 27, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an infectious disease 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 although the Petitioner satisfied three of the initial evidentiary criteria, as required, he did not show sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor.

On appeal, the Petitioner submits additional documentation and a brief, arguing that he has sustained the required acclaim and has risen to the very top of his field.

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).

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 indicated that he works as a researcher and clinician at the [REDACTED] in [REDACTED], Ohio.¹ As the Petitioner has not 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).

The Director found that the Petitioner met the following three criteria: awards under 8 C.F.R. § 204.5(h)(3)(i), 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 reviewed two papers for journals and published 20 scholarly articles in professional publications. Accordingly, we agree with the Director that the Petitioner fulfilled the judging and scholarly articles criteria. However, we do not concur with the Director’s determination that the Petitioner satisfied the awards criterion discussed below.

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 claimed to meet this criterion based on his receipt of the following: (1) a National Youth Award in 2008 from the [REDACTED] (2) a [REDACTED] Scholarship from

¹ While the Petitioner claimed in his initial cover letter that he “has worked as [a] researcher and clinician at the [REDACTED] since 2016, he did not provide evidence to support his assertion, nor did he document his employment history. In addition, the Petitioner’s résumé does not indicate any employment record.

██████████ in 2009; and (3) an unnamed presentation award from the ██████████ in 2018. In order to satisfy this criterion, the Petitioner must demonstrate whether he has received lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.²

As it relates to the National Youth Award, the Petitioner offered screenshots from ██████████ reflecting that the award “[r]ecognize[s] the achievements of the young people in their lives and to volunteers working for the welfare and development of the youth.” While the screenshots describe the purpose of the award, they do not establish that it is nationally or internationally recognized for excellence in his field of endeavor, infectious diseases. Moreover, the distribution of prizes and awards by governmental entities do not necessarily show that his field recognizes them for excellence. Here, the Petitioner did not demonstrate the infectious disease field’s view of the National Youth Award.

Regarding his ██████████ Scholarship, the Petitioner submitted “The ██████████ Scholarships Fact Sheet” indicating that they “are postgraduate awards that provide transformative opportunities for exceptional young leaders to study at the ██████████. Although ██████████ Scholarships are prestigious in academia, the Petitioner did not demonstrate that the scholarship is a recognized prize or award for excellence in his field of endeavor, infectious diseases. Moreover, academic study is not a field of endeavor, but training for one; academic awards and honors received while preparing for a vocation do not constitute nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

Relating to ██████████ presentation award, he presented a letter from ██████████, president of ██████████ who confirmed the Petitioner’s receipt of the award. However, the Petitioner did not offer evidence demonstrating that the award is nationally or internationally recognized for excellence in the field.

We note that the Petitioner also claims on appeal that he received “an award for the 14th Annual ██████████ in 2012” and “secured a travel award in 2013 to attend and present his work at the international ██████████ meeting in 2013 in ██████████ Kenya.” The Petitioner, however, did not support his assertions with corroborating evidence. In addition, the Petitioner did not demonstrate that the awards are nationally or internationally recognized for excellence in the field.

Because the Petitioner did not establish that his awards satisfy the eligibility requirements, we withdraw the findings of the Director for this criterion.

² 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>.

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 record reflects that the Petitioner claimed eligibility for this criterion based on the citation of his work and recommendation letters. 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.

Relating to his citations, the Petitioner provides updated evidence from *Google Scholar* reflecting that he garnered a total of 297 citations from 20 journal articles with his highest three cited papers (*International Journal of Infectious Diseases*, *Retrovirology*, and *BMC Infectious Diseases*) receiving 72, 45, and 39 citations, respectively. Generally, citations can serve as an indication that the field has taken an interest in a petitioner's work. However, the Petitioner did not articulate the significance or relevance of his citations. Further, although his citations are indicative that his research has received some attention from the field, the Petitioner did not demonstrate that his citation numbers to his individual articles represent majorly significant contributions to the overall field.³ Moreover, the Petitioner has not adequately identified the specific contributions he has made through his written work, nor has he shown that his citations for any of his published articles are commensurate with contributions of major significance. 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.

Regarding the recommendation letters, the authors summarize the Petitioner's professional accomplishments, such as completing training and education, presenting at conferences, reviewing journal papers, and publishing articles. However, the letters do not explain how the Petitioner's achievements have been considered by the field to be of major significance. Instead, the letters comment on the Petitioner's "unique" skills. For instance, [REDACTED] opined that the Petitioner's "expertise is unique" and his "skill set is highly unique and is matched by few others in the world."⁴ Moreover, [REDACTED] indicated that the Petitioner "has a truly unique skill set and accomplishment record" and is "a truly rare entity in the field of infectious diseases and medicine." Having a diverse or unique skill set is not a contribution of major significance in-and-of-itself. Rather, the Petitioner must demonstrate that he has used his "unique" skills to impact the field in a significant way. Moreover, the letters recollect the Petitioner's research without explaining how it has been of major significance to the field. For example, [REDACTED] indicated that the Petitioner conducted research in Pakistan relating to the human immunodeficiency virus and the human

³ 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); 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).

⁴ Although we discuss a sampling of letters, we have reviewed and considered each one.

papilloma virus but did not elaborate on the impact or influence of the findings beyond publishing in journals and presenting at conferences.

Here, the letters do not contain detailed information showing the substantial influence his contributions have had on the overall 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.⁵ 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.⁶ 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.

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 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 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. 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.

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

⁶ *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).

Matter of M-A-R-

ORDER: The appeal is dismissed.

Cite as *Matter of M-A-R-*, ID# 2524441 (AAO Mar. 27, 20109)