



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

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

MATTER OF G-M-

DATE: OCT. 25, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a dentist and researcher in the field of dentistry, seeks classification as an individual of extraordinary ability. *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 initially approved the petition. Subsequently, the Director issued a notice of intent to revoke (NOIR) the approval, advising the Petitioner that he did not satisfy the initial evidence requirement of presenting evidence of a one-time achievement that is a major, internationally recognized award, or documentation that met at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director further found that the Petitioner did not establish that he would continue work in his area of expertise in the United States. After reviewing the Petitioner's NOIR response, the Director revoked the approval of the petition, finding that it had been approved in error.

In his appeal, the Petitioner argues that the Director erred in finding he did not meet the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3). The Petitioner further states that the evidence demonstrates his standing as an individual of extraordinary ability.

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).

With respect to revocations, section 205 of the Act, 8 U.S.C. § 1155, states, in pertinent part, that the Secretary of Homeland Security "may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding revocation on notice, the Board of Immigration Appeals has stated:

In *Matter of Esteim*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and unrebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

Matter of Ho, 19 I&N Dec. 582, 590 (BIA 1988) (citing *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987)).

By itself, the Director's realization that a petition was incorrectly approved is good and sufficient cause for the revocation of the approval of an immigrant petition. *Id.* The approval of a visa petition vests no rights in the beneficiary of the petition, as approval of a visa petition is but a preliminary step in the visa application process. *Id.* at 589. A beneficiary is not, by mere approval of the petition, entitled to an immigrant visa. *Id.*

II. ANALYSIS

The Petitioner seeks classification as an individual of extraordinary ability in the sciences, specifically in the field of dentistry. He holds a Doctor of Dentistry from the [redacted] in [redacted] Russia (2008). Since 2010 he has been employed as a dentist at [redacted] in [redacted].

A. Evidentiary Criteria

Upon a review of all the documents in the record, we conclude that the Director properly revoked the approval of the petition, because the record does not establish that the Petitioner satisfies his initial evidence requirement. Specifically, he has not presented evidence of his one-time achievement that is a major, internationally recognized award, or documentation that satisfies at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).¹

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 provided award certificates regarding the following awards, all of which the he won jointly with others including his father, [redacted] and sister [redacted] [redacted] which he highlights on appeal²:

- 1) Gold Medal at the [redacted] [redacted] 2006)
- 2) Gold Medal at the [redacted] for Technological Innovation ([redacted] 2007)
- 3) Gold Medal at th [redacted] s from the [redacted] [redacted] 2007)
- 4) Gold Medal at the [redacted] [redacted] 2008)

¹ The Petitioner has not alleged, and the record does not establish, that he has received a one-time achievement. See 8 C.F.R. § 204.5(h)(3). We will discuss the evidence concerning the three criteria that he claims to meet.

² The Petitioner also provided a participation certificate regarding the 2012 [redacted] [redacted] organized by the [redacted] and the [redacted]. However, he has not established how a participation certification equates to the receipt of a lesser nationally or internationally recognized prize or award for excellence in the field.

- 5) Gold Medal at the [redacted] from the [redacted] [redacted] ([redacted] 2008)
- 6) Gold Medal at the [redacted] ([redacted] 2008)
- 7) Gold Prize at the [redacted] from the [redacted] Association ([redacted] 2008)
- 8) Gold Medal and Special Prize at the Fifth [redacted] [redacted] ([redacted] 2009)
- 9) Gold Medal at the [redacted] Projects from the [redacted] [redacted] ([redacted] [redacted] 2010)
- 10) [redacted] Prize 2014 from [redacted] [redacted] ([redacted] 2014)

First, the Director determined that the Petitioner did not provide properly certified translations for the foreign-language award certificates. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* In the NOIR, the Director noted that the Petitioner submitted English language translations accompanied by certifications in which the translator does not certify his/her translations “as complete.”

Within his response to the NOIR, the Petitioner provided additional translation certifications from a different translator, which postdate the original translations of the Russian language award certificates. In addition, the Petitioner’s response did not address the deficiencies in the translation certifications for the French language certificates from the [redacted] for Technological Innovation and the [redacted] of [redacted]. Further, although not addressed by the Director, we note that in the translation certifications for the [redacted] in [redacted], and the [redacted] in [redacted] the translator did not identify the foreign language of the certificates, and did not certify he/she is competent to translate from the foreign language into English. Because those translations do not comply with 8 C.F.R. § 103.2(b)(3), we agree with the Director that they have diminished probative value.

In addition, the Director determined that the evidence the Petitioner provided regarding the above-referenced awards did not meet the regulatory criterion because it did not establish that the awards are nationally or internationally recognized awards for excellence in the field.³ On appeal, the Petitioner maintains that the evidence he provided regarding these awards does in fact meet the regulatory requirements.⁴ With regard to the aforementioned awards, we find that the Petitioner did not submit

³ 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/sites/default/files/USCIS/Laws/Memoranda/i-140-evidence-pm-6002-005-1.pdf>.

⁴ We note that although the Petitioner further asserts on appeal that “[a]dditional material is enclosed with regard to the awarding organizations and the events at which [the Petitioner] received his awards,” the record does not contain this documentation.

evidence demonstrating their national or international recognition in the field of reinforced dentistry or in the general area of dentistry.

The Petitioner submitted documentation about many of the above exhibitions, trade fairs, and contests at which he received awards. Information from www.[redacted] describes the [redacted] [redacted] as “Germany’s only inventor fair with a truly global image.” It indicates that the 2015 event saw a jury, comprised of “25 independent members from the fields of economics, research, development, medicine and technology,” assess more than 700 inventions and award 65 gold medals, 86 silver medals, and 55 bronze medals. Documentation from [redacted] [redacted] about the [redacted] for Technological Innovation award ceremony indicates that “an international jury of professionals rewards the best innovations” and that “[w]e guarantee the winners that our prizes and medals are a very important gauge of quality to help them in the launch of their invention.” Information from www.[redacted].com indicates the [redacted] in [redacted] is an annual fair that provides a platform for inventors to “publicize their inventions for further operations of their patent,” “market their own inventions by selling them at stands,” and “receive an award.” The Petitioner also provided a press release from www.dualo.org identifying that entity as an award-winner at the 2014 [redacted] [redacted] event.

Promotional materials from www.[redacted].com state that the [redacted] [redacted] “highlighted the inventions, innovations and creativity of youths” and included “competitions for best inventions to be judged by a highly competent panel” and “valuable prizes for top inventions.” A press release from www.ameinfo.com states that the telecommunications company [redacted] co-hosted the 2015 [redacted] and notes the fair is “part of the International Exhibition of [redacted].” An additional press release from www.news.kuwaittimes.net indicates the event had “[m]ore than 160 inventors from 30 countries.” It also mentions that “[i]n the past, we were paying for the inventors to participate, and since the last two years, the inventors are paying to participate.” Documentation from the [redacted] in [redacted] indicates that the exhibition annually has more than 700 exhibitors from 45 countries exhibiting 1,000 inventions. The promotional materials show that the event awards more than 50 prizes based upon the selections of “a jury comprised of 82 specialists” with a goal to help the commercial launching of the winning inventions.

The Petitioner provided promotional materials from www.[redacted].org that describe the 2015 [redacted] [redacted] as “a 4-day event where inventors and researchers showcase their new ideas and products to manufacturers, investors, distributors, licensing firms, and the general public,” and note that the event had “723 inventions from 34 countries. . . .” Information from www.newtime.ayumel.ru about the 2013 [redacted] [redacted] in [redacted] indicates it is the official event of the [redacted] Associations, that it had 580 inventions, and presented “527 medals (gold, silver, bronze ones), 60 Diplomas of Honor and more than 60 prizes and other awards.” Finally, information from

www.expo2010.formika.ru indicates that the six-month event “will be attended by more than 200 official participants (countries and international organizations), including Russia.”⁵

As noted by the Director, the Petitioner has not established that the above-referenced awards are nationally or internationally recognized. The documentation submitted does not demonstrate the recognition that any of those awards received in the field beyond those awarding entities. For example, the Petitioner has not shown that his wins attracted the level of media attention that might indicate the award’s national or international recognition. Moreover, although the websites of many of the awarding organizations provide the number of awardees or prize recipients, the Petitioner has not submitted information about the individuals who participated in the event, including their caliber and skill level, which might reveal the prestige and recognition of the competition. See USCIS Policy Memorandum PM 602-0005.1, *supra*, 6 (providing that for this criterion we should consider “[t]he number of awardees or prize recipients as well as any limitations on competitors.”) Without additional evidence, the Petitioner has not demonstrated that the field recognizes the aforementioned awards at a national or international level as awards for excellence.

For these reasons, the Petitioner has not submitted documentation that 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).

This regulatory criterion contains multiple evidentiary elements that the Petitioner must satisfy. He must demonstrate that his contributions are original and scientific, scholarly, artistic, athletic, or business-related in nature. The contributions must have already been realized, rather than being prospective possibilities. He must also establish that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. The phrase “major significance” is not superfluous and thus has meaning. See *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F.3d 28, 31 (3d Cir. 1995), *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2d Cir. 2003). “Contributions of major significance” connotes that the petitioner’s work has significantly impacted the field. See *Visinscaia*, 4 F. Supp. 3d at 134. 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 is the co-author of “71 patents in Russia, which in itself attests to the originality of his scientific contributions to the field of dentistry” and he asserts that the submitted letters of recommendation “clearly establishes the originality of [the Petitioner’s] scientific research, and the major significan[ce] it has to the field of dentistry” As evidence reflecting the originality of his work, the Petitioner provided corroborating documentary evidence that he is the co-owner of approximately 70 Russian patents in the field of dentistry. The patents list the Petitioner’s father as the first inventor, and many also list his sister [redacted] as a co-inventor.⁶

⁵ The record does not include information regarding the 2014 [redacted] Prize in [redacted]

⁶ We note that the Petitioner’s grant of the patents began in 2002 when, according to his CV, he was completing his undergraduate degree at the [redacted] University of Medicine and Dentistry, so it is unclear how he should be credited with those contributions to the technique for which the patents were received.

First, as noted by the Director, the patents were accompanied by certified translations that did not satisfy the requirements of the regulations because they did not certify that were complete translations. Within his response to the NOIR, the Petitioner provided additional translation certifications from a different translator that postdate the original translations of the Russian language patents. Therefore, we agree with the Director that the translations have diminished probative value. Further, a patent primarily recognizes the originality of the idea, but it does not by itself demonstrate a contribution of major significance in the field. Rather, the significance of the innovation must be determined on a case-by-case basis. In the case here, the Petitioner submitted sufficient documentary evidence demonstrating his original research pertaining to reinforced dentistry. However, the submitted letters of recommendation did not establish that his research has been of major significance in the field.

The Petitioner provided a letter from [redacted] an associate professor in physics and astronomy at the University of [redacted] indicating that she met the Petitioner in 2011 and collaborated with him on research involving [redacted] resulting in the publication of three papers.⁷ She states that the Petitioner helped develop a unique technology for tooth repair using [redacted] which she claims have a lower incidence [redacted]. She also credits him with participating in developing the [redacted] of [redacted] that she claims reduces the number of critical pores between the layers of the [redacted]. She claims that many of her colleagues “throughout the world are also familiar with [the Petitioner’s] significant contributions to the [redacted] dentistry field.”

[redacted] the Petitioner’s father, provided two letters, in which he indicates that he has 35 years of research and clinical experience in the field of dentistry. He asserts that he and the Petitioner jointly have been granted 71 patents in the field of dentistry, have won the above-referenced gold medals at international exhibitions, and have authored 43 publications in the field of [redacted] dentistry. He describes the Petitioner’s research as involving “the elimination of complications after dental treatment and prosthetics.” He states that he and the Petitioner developed and patented the [redacted] technique and have “offered a mechanically activated [redacted] [redacted] which he claims “reduces complications and extends the functional operation of composite restoration.”

Professor [redacted] describes as “unique” the Petitioner’s doctoral thesis pertaining to the use of reinforced [redacted], although he does not indicate how he first became aware of the Petitioner’s research findings in the field of [redacted] dentistry. He indicates that “[i]mplementation of [the Petitioner’s] innovations to al[l]-around practices shall prevent and reduce the number of complications in dental practice, and increase the period of teeth functioning.” However, as stated previously, contributions must have already been realized, rather than being prospective possibilities.

[redacted] indicates that he was present when the Petitioner defended his doctoral thesis and is, therefore, familiar with the Petitioner’s research involving [redacted] [redacted].” He states that the Petitioner’s research confirmed “the advantage of [redacted].” He also credits the Petitioner with [redacted].

⁷ Although [redacted]’s letter indicates that she attached her CV for reference, the record does not contain a copy of that document.

co-inventing [redacted] which he states uses “a special tool” for [redacted]. [redacted] He indicates that clinical trials have shown that both of those techniques reduce the risk of complications and increase the lifespan of composite restoration materials. He claims that the Petitioner’s “innovative developments are of great practical value.”

Professor [redacted] indicates that the Petitioner is the co-author of an “innovative [redacted] using [redacted].” He states that the results of clinical studies showed the Petitioner’s technique “ensures durability of composites.”

While the letters praise the Petitioner for his original research contributions, they do not demonstrate their major significance to the field. The letters recount the Petitioner’s research and findings, and mention their publication in journals, and presentation at international trade shows and exhibitions. Publications and presentations are not sufficient under this criterion 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. Although the authors detail the novelty of the Petitioner’s research, they do not show why it has been considered of such importance and how its impact on the field rises to the level required by this criterion. Here, the record does not include documentary evidence showing the widespread implementation of the Petitioner’s work, that it has been seminal, or that it otherwise equates to an original contribution of 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.⁸ 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.⁹ 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 Director determined that the Petitioner did not meet this criterion. We disagree and find that the record supports the Petitioner’s claim that he meets this criterion. The Petitioner documented his co-authorship of scholarly articles in professional or major trade publications, such as the Institute of Dentistry’s journal *Clinical Dentistry*. For this reason, the Petitioner has submitted documentation that satisfies this criterion.

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

⁹ *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).

B. Summary

For the reasons discussed above, we agree with the Director that the Petitioner is not eligible because he has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). As a result, we need not fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, and conclude that it does not support a finding that the Petitioner has established the level of expertise 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 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 and 8 C.F.R. § 204.5(h)(2).

In addition, as the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not determine whether he is coming to “continue work in the area of extraordinary ability” under section 203(b)(1)(A)(ii) and will not address the Director’s separate finding with respect to that issue.

III. CONCLUSION

The Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability under section 203(b)(1)(A) of the Act. The appeal will be dismissed for the above stated reasons. In visa petition proceedings, 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 G-M-*, ID# 4385645 (AAO Oct. 25, 2019)