



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

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

In Re: 6349607

Date: APR. 29, 2020

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a managed pressure drilling engineer, seeks classification as an alien 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 Texas Service Center denied the petition, concluding that the Petitioner had satisfied only one of the initial evidentiary criteria, of which he must meet at least three.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) 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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through 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 sufficient qualifying 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 indicates that he has worked for [redacted] in various capacities since 2002, including his current employment as a drilling engineering team leader with [redacted] located in [redacted] Texas.

A. Evidentiary Criteria

Because the Petitioner 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). The Director found that the Petitioner met only one of the evidentiary criteria relating to high salary at 8 C.F.R. § 204.5(h)(3)(ix). The record reflects that the Petitioner commands a high salary from his employment with BP. Accordingly, we agree with the Director that the Petitioner fulfilled the high salary criterion.

Further, we find that the Petitioner participated in judging abstracts for a conference, satisfying the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). In addition, the record reflects that the Petitioner authored two scholarly articles published in professional publications, meeting the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi). Because the Petitioner has shown that he satisfies three criteria, we will evaluate the totality of the evidence in the context of the final merits determination below.¹

¹ *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* 13 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (providing that objectively meeting the regulatory criteria in part one alone does not establish that an individual meets the requirements for classification as an individual of extraordinary ability under section 203(b)(1)(A) of the Act).

B. Final Merits Determination

As the Petitioner submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim,² that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.³ In this matter, we determine that the Petitioner has not shown his eligibility.

The record reflects that the Petitioner received his bachelor's degree in electrical power and machines engineering from [redacted] University in 2001. In addition, he obtained a postgraduate diploma in petroleum engineering from [redacted] University in 2015. Moreover, as indicated above, the Petitioner has been employed by [redacted] in several capacities beginning in 2002. Specifically, he served in Egypt as a drilling engineer, night wellsite leader, senior drilling engineer, functional performance manager, and engineering team leader. Since 2014, [redacted] employed him as an engineering team leader and drilling engineering team leader in its [redacted] located in [redacted] Texas. As mentioned above, the Petitioner judged abstracts for a conference, authored two scholarly articles, and commands a high salary. The record, however, does not demonstrate that his achievements reflect a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

Relating to the Petitioner's service as a judge of the work of others, an evaluation of the significance of his experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22.⁴ The record reflects that the Petitioner participated in ranking abstracts in 2017 for a conference.⁵ However, the Petitioner did not establish that this single instance places him among the small percentage at the very top of his field. *See* 8 C.F.R. § 204.5(h)(2). He did not show, for example, how his limited abstract or paper selection experience compares to others at the very top of the field.

In addition, the Petitioner did not demonstrate that this one judging event, occurring approximately one year from filing his petition, contributes to a finding that he has a career of acclaimed work in the field or indicative of the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. The Petitioner did not establish, for instance, that he garnered

² *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 14 (stating that such acclaim must be maintained and providing *Black's Law Dictionary's* definition of "sustain" as to support or maintain, especially over a long period of time, and to persist in making an effort over a long period of time).

³ *Id.* at 4 (instructing that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the required high level of expertise of the immigrant classification).

⁴ *See also* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 13 (stating that an individual's participation should be evaluated to determine whether it was indicative of being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

⁵ On appeal, the Petitioner provides evidence listing him as a participant at a paper selection meeting for an upcoming conference in 2019; however, the Petitioner did not demonstrate that he actually participated in judging the abstracts or papers.

wide attention from the field based on his work ranking abstracts for a conference. Moreover, serving on a conference abstract committee or in the peer review process does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of his field. Without evidence that sets him apart from others in his field, such as evidence that he has a consistent history of completing a substantial number of review requests relative to others, served in editorial positions for distinguished journals or publications, or chaired technical committees for reputable conferences, the Petitioner has not shown that his peer review experience places him among that small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

Likewise, authorship and publication do not automatically place one at the top of the field.⁶ The record reflects that the Petitioner authored two papers in 2012. However, the Petitioner did not demonstrate that his publication record of two papers over seven years ago is consistent with having a career of acclaimed work and sustaining national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provide that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here, the Petitioner did not establish that his authorships reflect being among the small percentage at the very top of his field. *See* 8 C.F.R. § 204.5(h)(2). The Petitioner, for instance, did not show the significance of his authorship of two articles or how his publications compare to others who are viewed to be at the very top of the field.

Moreover, the citation history or other evidence of the influence of his written work can be an indicator to determine the impact and recognition that his publications have had on the field and whether such influence has been sustained. For example, numerous independent citations for an article authored by the Petitioner may provide solid evidence that his work has been recognized and that other managed pressure drilling engineers have been influenced by his work. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian*, 596 F. 3d at 1122.

The Petitioner provided evidence indicating that his onepetro.org article has been downloaded hundreds of times. While the downloads may show that his article was at least read or reviewed, he did not establish the importance or relevance of the figures. Specifically, he did not demonstrate that such download numbers sufficiently demonstrate a level of interest in the field commensurate with sustained national or international acclaim or represent attention at a level consistent with being among small percentage at the very top of his field. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

Likewise, the Petitioner did not demonstrate that his drillingcontractor.org article garnered him any national or international acclaim. *See* section 203(b)(1)(A) of the Act. He did not submit citatory documentation or other evidence consistent with a very high standard requiring the petitioner to present more extensive documentation than that required for lesser classifications. *See* 56 Fed. Reg.

⁶ *See also* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 13 (providing that publications should be evaluated to determine whether they were indicative of being one of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

at 30704. Further, the Petitioner did not show that the field has been influenced by his article or that it has somehow impacted the field in a significant manner.

Moreover, the Petitioner submitted evidence showing that he commands a high salary from [redacted]. Although he documented his earnings, the Petitioner did not demonstrate that his wages are tantamount to an individual who is among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). For example, the Petitioner did not compare his wages to others who are viewed to be among the very top of his field of endeavor, as well as how his salary differentiated from others at [redacted] in similar positions. While [redacted] pays him a high salary, the Petitioner did not establish that he earns a level of compensation commensurate with sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. Furthermore, the Petitioner did not show that he received notoriety or attention based on his earnings.

Beyond the three criteria that the Petitioner satisfied, we consider additional documentation in the record in order to determine whether the totality of the evidence demonstrates eligibility. Here, for the reasons discussed below, we find that the evidence does not establish that the Petitioner has sustained national or international acclaim and is among the small percentage of the top of his field.

The Petitioner provided evidence reflecting his involvement in the International Association of Drilling Contractors/American Petroleum Institute's Underbalanced Operations/Managed Pressure Drilling Committee. In addition, the Petitioner served on American Bureau of Shipping's Offshore Equipment Advisory Committee. Although the Petitioner drafted documents regarding industry practices and attended meetings, he did not demonstrate that his participation with these committees was somehow remarkable or garnered sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. For instance, he did not submit evidence of widespread media coverage resulting in significant attention for his associations or professional accomplishments with the committees. Moreover, he did not establish that his memberships with these committees reflected that small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(3).

Regarding published material, the Petitioner offered a single 2017 article posted on worldoil.com. The Petitioner did not demonstrate that being quoted in one published piece is consistent with the sustained national or international acclaim necessary for this highly restrictive classification. *See* section 203(b)(1)(A) of the Act. Further, the Petitioner did not show that his overall press coverage reflects a level of success consistent with being among that small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). In addition, the Petitioner did not establish that the limited media reporting reflects a career of acclaimed work in the field or a very high standard of presenting more extensive documentation than that required. *See* H.R. Rep. No. at 59 and 56 Fed. Reg. at 30704.

The Petitioner presented evidence of his involvement in projects with [redacted] his development of training materials and manuals for [redacted] and his performance appraisals from [redacted]. Moreover, the Petitioner provided recommended letters that summarized his work and contributions. The letters, however, do not contain sufficient information and explanation to show that the Petitioner is viewed by the overall field, rather than by a solicited few, as being among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). Further, the Petitioner did not establish that he has made impactful or influential contributions in the greater field reflecting a career of acclaimed work in the

field, garnering the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. In fact, the Petitioner submitted reference letters that contained identical language, which raise questions regarding their authenticity; and therefore, lack probative value.⁷ Here, the letters describe his work on projects with [] without showing how they rise to a level of major significance in the greater field and represent an individual who has garnered sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A) of the Act and 56 Fed. Reg. at 30704.

In addition, as mentioned above, the Petitioner has held various positions with [] since 2002. However, the Petitioner did not establish that any of his roles were either leading or essential to [] overall. Moreover, he did not demonstrate that his roles at a single company represents sustained national or international acclaim or a career of acclaimed work in the field. *See* section 203(b)(1)(A) of the Act and H.R. Rep. No. at 59. While the Petitioner's reference letters indicated his professional accomplishments, they did not show how his roles resulted in widespread acclaim from his field, that he drew significant attention from the greater field, or that overall field considers him to be at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2) and 56 Fed. Reg. at 30704.

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought. Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. Even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, we find the record insufficient to demonstrate that he has sustained national or international acclaim and is among the small percentage at the top of his field. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his eligibility 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.

ORDER: The appeal is dismissed.

⁷ *See* letters from [] and [], who also speculated on the possibility of the Petitioner's work having an impact at some point in the future, such as "[m]any of the contributions that [the Petitioner] and has team provided to this project will be used in similar projects for years to come."