



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

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

In Re: 5784760

Date: JAN. 7, 2020

Appeal of a Nebraska Service Center Decision

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

The Petitioner, a postdoctoral associate in materials chemistry, 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 denied the petition, concluding that the record did not establish that Petitioner met at least three of the ten initial evidentiary criteria, of which he must meet at least three. On appeal, the Petitioner claims that he meets three criteria and is eligible for the requested classification.

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).

II. ANALYSIS

The Petitioner, a materials chemist, seeks classification as an individual of extraordinary ability in the sciences. He received his bachelor's and master's degrees in chemistry at [redacted] University in China, and completed his Ph.D. in chemistry at [redacted] University in 2018. At the time of filing, he was employed as a postdoctoral associate at [redacted] University's School of Chemical and Biomolecular Engineering.

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 two of the initial evidentiary criteria, judging the work of others in his field and authorship of scholarly articles. *See* 8 C.F.R. §§ 204.5(h)(3)(iv) and (vi). The Petitioner's documentary evidence indicates that he has peer-reviewed manuscripts for several journals including *Journal of Electroanalytical Chemistry*, *Journal of the Electrochemical Society*, and *Materials Today Chemistry*.

In addition, the record contains evidence that the Petitioner has authored scholarly articles published in journals including *Journal of Materials Chemistry*, *Nano Research*, *Chemical Communications* and *The Journal of Physical Chemistry C*. Accordingly, we agree with the Director that the Petitioner fulfilled the requirements of the judging and scholarly articles criteria. On appeal, the Petitioner maintains that he also satisfies the requirements of the criterion relating to original contributions of major significance in his field. We will analyze the evidence submitted under this criterion below.

After reviewing all of the evidence in the record, we find that the Petitioner has not established that he satisfies at least three of the ten initial evidentiary criteria.

Evidence of the individual'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 meet this criterion, a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field.¹ 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 claimed in his initial cover letter that he made five original contributions of major significance in the field, as evidenced by his published research, citation record, and letters from experts in the field. Specifically, he highlighted the following areas of research: (1) synthetic strategies for creating [redacted] and their applications (four published articles); (2) environmental protection abilities of [redacted]: [redacted] dye removal (five published articles); (3) [redacted] hybrid materials and their applications in rechargeable batteries and dye removal (four published articles); (4) high voltage [redacted] materials and the impact of [redacted] on [redacted] ion batteries (four published articles); and (5) investigating [redacted] of battery electrodes during [redacted] activities using [redacted] [redacted] (one published article).

Although the Petitioner provided evidence reflecting the originality of his research through recommendation letters praising him for his contributions, the authors do not provide specific examples of contributions that are indicative of major significance.² In general, the letters recount the Petitioner's research and findings, indicate their publications in journals, and point to the citation of his work by others. Although they reflect the novelty of his work, they do not show how his research and findings have been considered of such importance and how their impact on the field rises to the level required by this criterion.

With respect to his research of synthetic strategies for creating [redacted], the Petitioner provided three letters from experts in his field. [redacted] a professor at [redacted] University, explains that the Petitioner developed an [redacted]-assisted [redacted] synthetic method to create [redacted] and discovered that the performance of such synthesized [redacted] was superior to commercially-available bulk materials of the same composition with respect to certain practical applications, including the removal of water pollutants. [redacted] states that the Petitioner's discovery of growth mechanisms for [redacted] provides "a blueprint for the further design and preparation of functional [redacted]," and notes that he used the Petitioner's [redacted] as part of his own published enzyme mimic study.

Similarly, [redacted] a professor at [redacted] University states that the Petitioner's "research into the material synthesis, growth mechanisms, and functional applications of [redacted] acted as a cornerstone" into his own investigation on [redacted] and "strongly informed [his] methods of optimizing my materials." [redacted] provides an example of another team of researchers that cited the Petitioner's work, states that the Petitioner has made "significant headway" in the development of [redacted] and indicates that his research "continually serves as a guide

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 8-9* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (stating that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

² Although we do not discuss every letter submitted, we have reviewed and considered each one.

of other researchers aiming to optimize the sensitivity and reliability of [redacted] through the use of precisely controlled [redacted].” However, neither [redacted] nor [redacted] further elaborated or discussed whether the Petitioner’s findings have been implemented beyond informing the research of other scientists in the same field, and if so, the extent of their application. Neither letter specified how his research towards the development of [redacted] is deemed a majorly significant contribution to the field.

A third letter, from [redacted] describes the Petitioner’s syntheses and analysis of [redacted] [redacted] as a “landmark study for the field,” noting that the Petitioner’s research “laid the groundwork for the development of [redacted] with cutting-edge [redacted] applications.” [redacted] [redacted] states “in direct recognition of its ingenuity and significance” he used the Petitioner’s work on [redacted] as the basis for his own study on [redacted] detection. Finally, he indicates that the Petitioner “has enabled fellow researchers to understand the properties of these materials in unprecedented depth” and “established guidelines for the advancement of [redacted] technology.” While [redacted] describes the Petitioner’s research as “landmark” and “pivotal,” he does not discuss in detail how the work has already remarkably impacted their shared field, elaborate on the “established guidelines,” or provide examples of specific applications attributed to the Petitioner’s work.

With respect to the Petitioner’s investigation of the environmental protection abilities of [redacted] [redacted] he provided a letter from [redacted] a professor at Università degli Studi [redacted] [redacted] explains that the Petitioner’s research in this area is “deeply impactful” and “groundbreaking in its approach” by demonstrating that varying parameters can provided “an unprecedented level of control over the [redacted] in [redacted].” He further states that he and several other teams of researchers have relied on the Beneficiary’s published work in this area, noting that the Petitioner has been an essential contributor to projects that are “advancing the state of materials science” and noting his “immeasurable impact on the field.” While [redacted]’s letter praises the Petitioner’s research, he has not sufficiently detailed in what ways the Petitioner has advanced the state of research in his field or elaborated on how the Petitioner’s work has already impacted the wider field beyond the teams of researchers who have directly cited his articles.

The Petitioner’s investigation of [redacted] materials and their applications is addressed in two of the submitted expert opinion letters. [redacted] explains that the Petitioner developed a [redacted] strategy for creating [redacted] materials,” and found that these [redacted] materials, when applied to an electrode, enhance its overall electrochemical performance, and can also be used to remove dye pollution from water. He refers to the Petitioner as “a guiding light in his discipline” with contributions in materials research “that affect everything from medicine to energy storage to industrial chemistry” and opines that his “of enormous value to the world.” A letter from [redacted] also discusses the Petitioner’s “originally developed synthetic method for [redacted] materials.” She explains that [redacted] materials possess one-of-a-kind electronic properties and mechanical strength” and states that the Petitioner’s development of a reliable method for their preparation “has enabled others throughout our shared field to take advantage of these properties in previously unimaginable ways.” [redacted] indicates that she has relied on the Petitioner’s method to carry out four of her own related studies, describes her own research, and concludes that the Petitioner is “a

foremost expert on a complex class of [redacted] holding considerable commercial, industrial and environmental value.” Although [redacted] confirms that she and several other researchers have found the Petitioner’s work useful and applicable to their own research projects, her statement does not establish that the Petitioner’s findings have been widely implemented in the field, or explained how they have already been of significant “commercial, industrial and environmental value.” Similarly, [redacted]’s statement is not sufficiently detailed to support his conclusion that the Petitioner’s contributions to materials science are “of enormous value to the world.”

Finally, the Petitioner provided a letter from [redacted] a staff scientist at [redacted] Laboratory, who discusses the Petitioner’s research in high voltage [redacted] materials in [redacted] ion batteries and in observing the [redacted] of battery electrodes during [redacted] activities using [redacted]. He summarizes the Petitioner’s studies in these areas, noting that his [redacted] research in particular were essential to biomedical engineers who were seeking to improve the functionality of [redacted] defibrillators. However, he does not indicate that the Petitioner’s research has been widely applied in the field or how it has already been adopted by biomedical engineers.

The letters considered above primarily contain attestations of the novelty and utility of the Petitioner’s research studies without providing specific examples of contributions that rise to a level consistent with major significance. Letters that specifically articulate how a petitioner’s contributions are of major significance to the field and its impact on subsequent work add value.³ 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.⁴ 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). The authors’ assertions in the above-referenced letters do not explain how the Petitioner’s research findings have been widely implemented or relied upon by others in the field or not establish that the Petitioner’s work has had a demonstrable impact on the field as a whole commensurate with a contribution of major significance.

The Petitioner also submits his publication and citation record from Google Scholar. But this evidence not show that the impact of his work on the overall field of materials chemistry rises to the level of an original contribution of major significance. The fact that the Petitioner has published articles that other researchers have referenced is not, by itself, indicative of a contribution of major significance. Publications are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of “major significance.” We acknowledge, however, that a petitioner may present evidence that his articles “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 [his] work as authoritative in the field, may be probative of the significance of [his] contributions to the field of endeavor.”⁵

Here, the Petitioner submitted evidence from Clarivate Analytics showing that some of the articles he published were ranked among the top 10% in citations when grouped by academic field (in this case, chemistry) and year of publication. He further submitted a paper published in the journal

³ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁴ *Id.* at 9.

⁵ *Id.* at 8.

Scientometrics which suggests that this metric is one of three that should be used to evaluate individual researchers in the natural and life sciences” for purposes of funding and promotion or hiring decisions. The authors state that “publications which are among the 10% most cited publications in their subject area are as a rule called highly cited or excellent” and that “the top 10% based excellence indicator” should be given “the highest weight when comparing the scientific performance of single researchers.” However, this evidence does not establish that metrics that may be suitable for comparing applicants for academic research positions and grants are indicators that a researcher has made contributions of major significance to his or her field.⁶

Comparative rankings to baseline or average citation rates do not automatically establish that a given petitioner has made a contribution of major significance in the field.⁷ A more appropriate analysis, for example, would be to compare the Petitioner’s citations for individual articles to other similarly, highly cited articles that the field views as having been of major significance, as well as factoring in other corroborating evidence. Highly-cited publications alone are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of “major significance” as a citation ranking does not provide sufficient context to determine the impact or importance of a given researcher’s work in the field. That context must be provided by other evidence in the record.

The Petitioner has not demonstrated, as he asserts, any of the nine articles he characterizes as highly cited resulted in an original contribution of major significance in the field. While the Petitioner submitted corroborating evidence in the form of expert opinion letters, that evidence, for the reasons already discussed, is not sufficient to establish that any of the Petitioner’s research findings, individually or collectively, have remarkably impacted or influenced his field.

Further, the record indicates that the Petitioner submitted samples of articles that cited to his work. A review of those articles, though, does not show the significance of the Petitioner’s research to the overall field beyond the authors who cited to his work. For instance, the Petitioner provided a partial article entitled, [REDACTED]

[REDACTED] (*Analytica Chimica Acta*), in which the authors cited to his 2012 *Journal of Materials Chemistry* article.⁸ However, the article does not distinguish or highlight the Petitioner’s written work from the over 53 other cited papers. Here, the Petitioner has not shown how any of his published articles have an impact that rises to the level of “major significance” consistent with this regulatory criterion.

The Petitioner also emphasizes that his publications have been cited in several review articles, and submits a screenshot of a page from the website of the University of [REDACTED] Libraries titled “What’s a

⁶ Further, we note that evidence that summarizes citations to the Petitioner’s entire body of published work do not demonstrate that any specific work of his is so widely cited and relied upon that it is considered to have made a major impact in his field. Comparison of the Petitioner’s cumulative citations to others in the field is often more appropriate in determining whether the record shows sustained national or international acclaim and demonstrates that he is among the small percentage at the very top of the field of endeavor in a final merits determination.

⁷ For instance, according to the data from Clarivate Analytics, chemistry papers published in 2017 receiving only seven citations and in 2018 receiving only two citations are in the top 10%. The Petitioner has not demonstrated that papers with such citation counts have necessarily had a major, significant impact or influence in the field as evidenced by being among the top 10% of most highly cited articles according to year of publication.

⁸ Although we discuss a sample article, we have reviewed and considered each one.

‘Review Article?’” Counsel states that “the appearances of [the Petitioner’s] studies in the review literature demonstrate his status as an authority in the field, showing that he has not simply performed research that adds to the pool of knowledge, but has inspired meaningful discourse throughout the field.” The evidence indicates that review articles are “an attempt to . . . sum up the current state of the research on a particular topic” and may identify “the main people working in a field” and “recent major advances and discoveries.” One of the submitted review articles, titled [REDACTED] (Chem. Soc. Rev.), cites to the Petitioner’s 2012 *Journal of Materials Chemistry* article among at least 292 other articles. Another review article titled ‘[REDACTED]’ (*Materials Chemistry A*), cites to the Petitioner’s 2011 *Chemical Communications* Article among at least 620 other articles. While the evidence indicates that the Petitioner has made original contributions to what appears to be a very active field of research, we cannot determine that every publication cited in a review article is indicative of an individual contribution of major significance, and the evidence does not distinguish the Petitioner’s publications from the many others cited.

The Petitioner refers to our non-precedent decision concerning an atomic physics researcher who petitioned under this classification. This decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. See 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case, and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. Nevertheless, we note that the Petitioner emphasizes that, in the referenced decision, we determined that “over 350 citations, in conjunction with reference letters, are good evidence of a petitioner’s contributions of major significance.” However, the non-precedent decision also highlights the fact that we placed significant weight on the statements of experts who clearly described how the petitioner’s scientific contributions were both original and of major significance in their field. The expert opinion letters submitted in this matter did not contain sufficient probative analysis regarding the major significance of the Petitioner’s contributions.

Considered together, the evidence consisting of the citations to the Petitioner’s published findings, the citation statistics, and the reference letters from his fellow materials chemists and other experts, establishes that the Petitioner has been productive, and that his published data and findings have been relied upon by others in their own research. It does not demonstrate that the Petitioner has made a contribution of major significance in the field of materials chemistry. Therefore, he has not met 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 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. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.