



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

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

In Re: 11853011

Date: NOV. 30, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a physician and researcher in the field of hematology oncology, 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 Petitioner established that she met only two of the ten evidentiary criteria for the requested classification, of which she 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)(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 a multi-part analysis. First, a petitioner can demonstrate international 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).

## II. ANALYSIS

The Petitioner is a physician and researcher in the field of hematology oncology. She received her Bachelor of Medicine Bachelor of Surgery (MBBS) and her doctor of medicine in general medicine from [REDACTED] University in [REDACTED] India, in 2003 and 2008, respectively. She completed her residency training in internal medicine at the [REDACTED] Medical Center in 2017. At the time of filing, she was employed as a research fellow in hematology oncology at the [REDACTED] Cancer Institute [REDACTED].

### A. Evidentiary Criteria

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). The Director found that the Petitioner met only two of the initial evidentiary criteria, judging the work of others in her 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 she has authored scholarly articles published in journals including *Breast Cancer: Targets and Therapy*, *Clinical Case Reports*, and *Clinical Lymphoma, Myeloma & Leukemia*. Although we agree with the Director that the Petitioner authored scholarly articles in professional publications, we do not concur with the Director's finding relating to the judging criterion, discussed later.

On appeal, the Petitioner maintains that she also satisfies the requirements of the criterion relating to original contributions of major significance in her field.<sup>1</sup> After reviewing all the evidence in the

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<sup>1</sup> We note that the Director determined that the Petitioner claimed, but did not establish, that she meets the criteria related to membership in associations at 8 C.F.R. § 204.5(h)(3)(ii) and leading or critical role for distinguished organizations at 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner does not contest the Director's finding that she does not meet these criteria or offer additional arguments. Therefore, we consider this issue to be abandoned. *See Sepulveda v. U.S. Att'ey Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at \*1, \*9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO).

record, we find that the Petitioner has not established that she satisfies at least three of the ten initial evidentiary criteria.

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)*

The record reflects that the Petitioner claimed eligibility for this criterion based upon her having been “selected to review for medical journals” and her teaching duties with the [REDACTED]. As discussed earlier, the Director found that the Petitioner satisfied this criterion. For the reasons outlined below, the record does not reflect that the documentation submitted sufficiently demonstrates that the Petitioner meets this criterion, and the Director’s determination on this issue will be withdrawn.

Regarding the Petitioner’s participation in the peer review process, the Petitioner provided an email from [REDACTED] the associate editor of the journal *Blood*, thanking her for agreeing to review the article “[REDACTED]” and reminding her to complete her review by [REDACTED] 2019. Further, the Petitioner provided an email dated [REDACTED] 2019 from [REDACTED] a guest editor for *Seminars in Cancer Biology*, inviting her to review the manuscript “[REDACTED]”<sup>2</sup>

In order to meet this criterion, a petitioner must show that she has not only been invited to judge the work of others, but also that she actually participated in the judging of the work of others in the same or allied field of specialization.<sup>3</sup> Here, the aforementioned emails do not demonstrate that the Petitioner actually completed the reviews.<sup>4</sup> Instead, as indicated above, the emails reflect a confirmation of her agreement to conduct the article review and an invitation to conduct the manuscript review. Moreover, the Petitioner did not present any supporting evidence establishing that she, in fact, performed those reviews.

As it pertains to her teaching duties at the [REDACTED] the record does not demonstrate sufficiently that the Petitioner’s duties in this position constitute judging the work of others in the field. The Petitioner maintains that she “evaluates students in regard to their medical knowledge, skills involving patient history taking, ability to conduct physical examinations, and personal characteristics as it relates to patient care.” As discussed previously, this criterion requires evidence that the Petitioner has served as “a judge of the work of others in the same or an allied field of specialization for which classification is sought.” Students in medical school are not in the Petitioner’s field of specialization or an allied field; they are studying to enter the field. Further, the Petitioner did not present any corroborating documentation showing how many or which students she evaluated. Without further documentation, her evidence regarding her teaching duties is inadequate to satisfy this criterion.<sup>5</sup>

<sup>2</sup> We note that these emails relate to events occurring after the filing of the petition. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

<sup>3</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8.

<sup>4</sup> *Id.* (proving an example of peer reviewing for a scholarly journal, as evidenced by a request from the journal to the alien to do the review, accompanied by proof that the alien actually completed the review).

<sup>5</sup> Similarly, the Petitioner also provided an email dated April 2019 from [REDACTED] the program coordinator for

For the reasons discussed above, the Petitioner did not establish that she participated as a judge of the work of others consistent with this regulatory criterion. Accordingly, we withdraw the decision of the Director for this criterion.

*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)

The Petitioner maintains that she has made several original contributions of major significance in her field as evidenced by her published research, citation record, and letters from experts in the field. In order to meet this criterion, a petitioner must establish that not only has she made original contributions but that they have been of major significance in the field.<sup>6</sup> For example, a petitioner may show that her 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.

In his decision, the Director acknowledged the Petitioner's submission of expert opinion letters discussing her research, copies of her published articles along with information regarding the journals in which she was published, and evidence that she has been cited by other researchers in their own published work. However, the Director determined that the evidence did not substantiate the Petitioner's claim that she had made original scientific contributions of major significance. On appeal, the Petitioner asserts that the Director did not give sufficient consideration to the evidence submitted in support of this criterion.

First, the Petitioner emphasizes that she has authored 12 articles in professional journals. As one type of evidence of the impact of her work, she provided a January 2020 Google Scholar citation history reflecting 11 cumulative citations to those articles, authored by her between 2016 and 2019. Specifically, the record shows that her three highest cited articles received 7 (*Breast Cancer: Targets and Therapy*), 3 (*Clinical Case Reports*), and 1 (*Clinical Lymphoma, Myeloma & Leukemia*) citations, respectively.<sup>7</sup> While the Petitioner's citations, both individually and collectively, show that the field has noticed her work, she has not established that such rates of citation are sufficient to demonstrate a level of interest in her field commensurate with contributions "of major significance in the field."<sup>8</sup> The Petitioner argues that since her articles have been published only in the past "two" years, "pure reliance on citations is flawed when analyzing the influence of one's work, and other factors should be taken into consideration such as the amount of times [the Petitioner's] work has been viewed or downloaded . . . the reputable medical journals that have published [the Petitioner's] work, as well as attestations from others in the field . . ." In support, she refers to an article previously submitted entitled "Citation analysis may severely underestimate the impact of clinical research as compared to

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the [redacted] confirming that the Petitioner would participate in the program as mentor for student [redacted] for the mentoring term beginning June 2019. However, the Petitioner did not provide any documentary evidence establishing that she actually participated in the program as a mentor.

<sup>6</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

<sup>7</sup> The Petitioner's remaining 9 publications did not receive any citations.

<sup>8</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8 (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).

basic research.” Although this article discusses the limitations of popular bibliometric indicators, such as the h-index and the impact factor, and concludes that those indicators are not reliable in making “accurate between-field comparisons,” it does not undermine the value of citations as one of the tools for assessing clinical research performance. For example, the article states that “[c]itation analysis is widely used in the assessment of research performance in the medical sciences.”

In addition, the Petitioner emphasizes that her work has been published in highly reputable national journals “that boast low acceptance rates and high impact factors.” However, the Petitioner has not demonstrated that publication of her articles in highly ranked journals establishes that the field considers her research to be an original contribution of major significance. Moreover, a publication that bears a high ranking or impact factor is reflective of the publication’s overall citation rate. It does not show an author’s influence or the impact of research on the field or that every article published in a highly ranked journal automatically indicates a contribution 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 at 1036, *aff’d in part*, 596 F.3d at 1115. Here, the Petitioner has not established that publication in a popular or highly ranked journal alone demonstrates a contribution of major significance in the field.

The Petitioner also provided examples of citations to her work by other researchers. A review of those articles, though, does not show the significance of the Petitioner’s research or demonstrate how it has widely impacted the field. For instance, the Petitioner provided an article entitled, [REDACTED]” (*Plastic and Reconstructive Surgery*), in which the authors cited to her article published in *Breast Cancer: Targets and Therapy*.<sup>9</sup> However, the article does not distinguish or highlight the Petitioner’s written work from the other cited papers; rather, the authors cited her article in support of a statement that [REDACTED]’ The article, the stated purpose of which is “to describe the current understanding of the [REDACTED] and [REDACTED] to date,” discusses more than 35 source articles in similar terms; there is no special emphasis on the Petitioner’s work relative to the hundreds of researchers who contributed to the other cited articles. This article and others like it acknowledge the Petitioner’s contributions to the advancement of what appears to be an active area of research but are not indications that her work has substantially influenced the field or otherwise rises to the level of an original contribution of major significance in the field.

In addition, the Petitioner provided documentation showing that she was selected for participation in the [REDACTED] and a [REDACTED] workshop jointly sponsored by the [REDACTED] and [REDACTED]. However, this evidence relates to events occurring after the filing of the petition. As discussed previously, the Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Regardless, we note that the Petitioner’s proffered fellowship is intended to provide specialized research experience and training in her field of endeavor, while the [REDACTED] workshop offers clinical fellows and junior faculty clinical researchers “an introduction to [the [REDACTED], clinical trial design, oncology drug regulatory science, and the drug/device approval process.” The Petitioner’s evidence does not demonstrate how receiving an offer of funding for one’s academic

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<sup>9</sup> Although we discuss a sample article, we have reviewed and considered each one.



training or participating in a workshop intended for “trainees and early career oncologists” seeking to further their training and experience is indicative of or consistent with a completed contribution of major significance in the field.

Further, although the Petitioner provided expert opinion letters praising her research contributions, the authors, as discussed below, do not provide specific examples of original contributions that are indicative of major significance. In general, the letters recount the Petitioner’s research and findings and indicate their publications in journals. Although they reflect the novelty of the projects on which she worked, they do not show how her research and findings have been considered of such importance and how their impact on the field rises to the level required by this criterion.

Within the Petitioner’s initial submission, she provided a letter from [redacted] the program director of hematology/oncology fellowships at the [redacted] [redacted] indicates she has worked with the Petitioner since 2017 and praises her “clinical acumen and her leadership in handling complex cases.” She notes that the Petitioner’s recent research is aimed at repurposing the FDA-approved drug [redacted] in patients suffering from the blood cancer [redacted]. She also describes some of the Petitioner’s work on clinical research trials involving treatment options for adults with [redacted] [redacted], in which the Petitioner’s team developed a chemotherapy regimen for older adults with a diagnosis of [redacted] which was associated with an encouraging [redacted] rate and manageable [redacted]. Regarding the Petitioner’s clinical skills, [redacted] provides an example of a case in which the Petitioner’s ability to identify a [redacted] [redacted] for a biopsy saved the patient from a highly interventional procedure. She further indicates that the Petitioner’s teaching responsibilities include teaching medical students the “necessary clinical and diagnostic skills” and instructing on hematological malignancies in a “Blood” course.

[redacted] of the [redacted] Cancer Center, who indicates that he bases his knowledge of the Petitioner “on a review of her credentials and through my familiarity with her stellar reputation as a researcher,” indicates the Petitioner’s clinical practice requires her “to remain updated and knowledgeable with regards to chemotherapy regimens.” As a researcher, he notes that the Petitioner “has published full-length articles and case reports in premier medical journals” and has presented her research “at premier scientific meetings.” He highlights the findings of the Petitioner’s second-highest cited article, published in *Clinical Case Reports*, that the drug [redacted] [redacted]. He characterizes the Petitioner as possessing superior clinical expertise and leadership in the field as an investigative researcher. We note, however, that [redacted]’s CV indicates that he is an expert in the field of cardiology and the treatment of cardiovascular disease; he is not a recognized expert in the Petitioner’s field of hematology/oncology.

[redacted] an assistant professor of hematology and oncology at the University of [redacted] Medical School who indicates he is familiar with the Petitioner’s work through a review of her CV, asserts that “during the course of her relatively young career” the Petitioner has published “findings of major significance.” He states that the Petitioner’s original research works have been “read in excess of 300 times by researchers located at different institutions across the globe.” [redacted] [redacted] discusses the findings of the Petitioner’s highest-cited article, published in *Breast Cancer: Targets and Therapy*, that breast cancer in patients with [redacted]

[redacted] He described the article as a “crucial finding as people with [redacted] are certain to develop cancers and early intervention is life-saving.” He describes her as an “outstanding” and “remarkable” clinical researcher” who “has produced innovative research findings over a wide range of important topics.”

[redacted] who worked with the Petitioner for several years during her residency at the [redacted] Medical Center, states that the Petitioner’s “innovative” research in the field has been introduced at many premier national conferences and published in prominent medical journals, and “has since accumulated numerous reads.” He further asserts that the Petitioner’s clinical research work regarding cancer patients “is broad in spectrum, translating novel findings and treatments relating to cancer in the laboratory into clinical practice,” and that her work “broadens the medical community’s knowledge regarding novel treatment options.”

[redacted] a radiation oncologist at the [redacted] Cancer Center, who indicates her expert opinion was based upon review of the Petitioner’s CV, states “it should be obvious simply based on her numerous publications and accompanying read counts that [the Petitioner] has made key strides as a researcher.” However, the record does not contain evidence corroborating her statement, or those of [redacted] and [redacted] regarding the significance of the number of “reads” or “read counts” for the Petitioner’s online papers. Although the Petitioner provided screenshots from www.researchgate.net dated July 2019, showing the Petitioner’s profile page and indicating that her 8 research items have received 408 reads and 2 citations, the record does not contain evidence to give context to their statements or allow comparison with the work of others in the Petitioner’s field. In addition, although others in the field may have read the Petitioner’s articles, there is no documentary evidence showing that her articles have been extensively cited by independent researchers or have otherwise risen to a level of major significance in the field.

Within the Petitioner’s response to the Director request for evidence she presented several additional letters from colleagues at the [redacted] [redacted] identifies as a “significant contribution” the Petitioner’s review article titled [redacted] [redacted] for which he is the senior author. He indicates the article “focuses on the apparent and evolving potential of [redacted] [redacted] with emphasis on [redacted], highlighting both success and failure with this experimental approach in the clinic, and identifying rationally based combinatorial approaches.” The record reflects, however, that the Petitioner’s review article in this area was published by *Blood Reviews* in [redacted] 2019, subsequent to the filing of the petition in July 2019. As mentioned previously, the Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). In addition, [redacted] letter does not provide sufficient specificity regarding how the article’s research findings rise to the level of an original contribution of major significance in the field.

[redacted] asserts that the Petitioner’s review article titled [redacted] [redacted] published in *Clinical Lymphoma, Myeloma & Leukemia*, “is novel and original,” as it discusses the [redacted] diagnostic methods, and novel targeted therapies, and “sheds light on a rarely studied disease.” [redacted] provides that the Petitioner’s article titled [redacted]

published in *Clinical Lymphoma, Myeloma & Leukemia*, produced “truly groundbreaking research” in having “discussed the [redacted] of the heterogeneous molecular fingerprint of [redacted] focusing on emerging targeted therapies, specifically [redacted] and [redacted] pathways.” Although he indicates that he has “referred to this important research article many times in my own practice” he does not address whether the Petitioner’s findings have been utilized by other practitioners or researchers in the field, and if so, the extent of their application.

In addition, several reference letters provide that the Petitioner has been invited to present her findings at professional conferences. The letters, however, do not explain how her presentation and conference activities have impacted or influenced the field as a whole. Participation in a conference demonstrates that her findings were shared with others, but being selected to present, without more, is not indicative of the major significance of her contributions. Publications and presentations are not sufficient under this criterion absent evidence that they were of “major significance.” *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff’d in part*, 596 F.3d 1115.

The letters considered above primarily contain broad attestations of the significance of the Petitioner’s clinical and research studies without providing specific examples of original 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.<sup>10</sup> 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.<sup>11</sup> 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. Without additional detail explaining her accomplishments relating to new or innovative techniques or findings, the letters discussed above do not establish that the Petitioner’s research has had a demonstrable impact in her field commensurate with a contribution of major significance. Simply stating that the Petitioner’s work is “important”, “novel”, “crucial”, or “groundbreaking” is not sufficient. The expert opinion evidence reviewed in its totality does not establish how the Petitioner has already made a contribution 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

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<sup>10</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

<sup>11</sup> *Id.* at 9.



has not shown that the significance of her 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 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). Although the Petitioner has conducted research and authored scholarly articles, the record does not contain sufficient evidence establishing that she is among the upper echelon in her field.

For the reasons discussed above, the Petitioner has not demonstrated her 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.