



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

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

In Re: 17513961

Date: AUG. 24, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, a nephrologist, 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 although the record established that the Petitioner satisfied the initial evidentiary requirements for this classification, it did not demonstrate, as required, that he has sustained national or international acclaim and is among the small percentage at the very top of his field. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we will sustain the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens 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 the petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria 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 clinical researcher in the internal medicine specialty of nephrology. At the time of filing, he was an attending physician, faculty member, and director of clinical research for the Division of Nephrology at [redacted] in [redacted].

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 concluded that the Petitioner met three of these ten criteria and the record supports this determination. The Petitioner’s documented service as a peer reviewer for professional journals constitutes participation as a judge of the work of others in the same or allied field under 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner has also authored scholarly articles in professional publications in his field and therefore meets the criterion at 8 C.F.R. § 204.5(h)(3)(vi). Finally, the record establishes that the Petitioner has served in critical roles for the [redacted] Health system and demonstrates that his employer enjoys a distinguished reputation among U.S. medical institutions, thus satisfying the criterion at 8 C.F.R. § 204.5(h)(3)(viii). Because the Petitioner has established that he meets the initial evidence requirements, we will discuss the totality of the evidence, including evidence submitted in support of additional criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x), in the final merits determination below.

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, that he has sustained national or international

acclaim and 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 their successes are sufficient to demonstrate that they have 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. We conclude that the Petitioner has demonstrated his eligibility for this classification.

The record reflects that the Petitioner completed his initial medical training in India, where he received a bachelor of medicine and bachelor of surgery (MBBS) from [redacted] University in 2000 and a doctor of medicine (MD) degree from University of [redacted] in 2006. Subsequently, he completed an internship and residency in internal medicine at [redacted] between 2008 and 2011, where he served as the chief medical resident in internal medicine from 2011 until 2012. The Petitioner received his certification in nephrology from the American Board of Internal Medicine in November 2014 after completing a two-year fellowship at University of [redacted] at [redacted]. He currently serves as an attending physician, faculty member and director of clinical research in [redacted]'s Division of Nephrology. The record reflects that, since receiving his board certification, the Petitioner has been able to achieve and sustain a national reputation as an expert in the research and treatment of rare kidney diseases and, more recently, in the treatment of COVID-19-related kidney injury.

With respect to his experience judging the work of others, the Petitioner established that he has received and completed independent requests to review a substantial number of manuscripts for renowned professional publications. We find the Petitioner's judging experience, together with the achievements described further below, to be consistent with a determination that he is among the small percentage at the top of his field of endeavor. See 8 C.F.R. § 204.5(h)(2).

As noted, the Petitioner provided evidence that he serves in a critical role as an attending physician and director of clinical research in nephrology for [redacted], a [redacted] hospital system. The record reflects that this prominent position has provided the Petitioner with opportunities to participate in high-profile clinical research consortia which have, in turn, garnered him wider recognition as a leading expert in his field. Of note, the Petitioner was invited to participate as [redacted]'s site investigator for the [redacted] study. The coordinator of this study [redacted] of [redacted] Medical School, describes it as a multidisciplinary, multi-institutional study that was created [redacted]. [redacted] emphasizes that while over 300 investigators are involved in the [redacted] study, the Petitioner was invited to join the group's [redacted] committee, which is comprised of a much smaller team of researchers. As such, [redacted] states that the Petitioner should be considered a main author of several major studies that significantly impact the treatment of COVID-19 in critically ill patients.

The record contains evidence that the Petitioner's co-authored article, [redacted], published in *JAMA Internal Medicine*, received major media attention upon publication from outlets that included [redacted].

NPR, The Washington Post, BBC, USA Today and CNN. Further, the record reflects that the drug tocilizumab has since been approved by health authorities in the United Kingdom and elsewhere as a viable treatment option for critically ill COVID-19 patients.

A letter from [redacted] American Society of Nephrology (ASN), explains the clinical significance of the Petitioner's paper "[redacted]" which was published in the *Journal of the American Society of Nephrology (JASN)*. [redacted] emphasizes that this research represents "the largest and most influential study of COVID-19 patients admitted to ICU who needed dialysis, and is invaluable to physicians, public health professionals and hospital administrators to anticipate the need for dialysis in critically ill patients with COVID-19 and . . . to ensure adequate dialysis facilities and trained personnel." [redacted] Chief of the Division of Nephrology at University [redacted] also discusses this "seminal article," noting that it served to "increase our understanding of the intersection between COVID-19 and AKI [acute kidney injury] and guides treatment decisions by clinical physicians as we navigate this deadly pandemic about which know very little." In addition, the record reflects that ASN invited the Petitioner to present the study at its annual [redacted] conference and that the editor-in-chief of *JASN* highlighted this article as one of the five most important studies published by the journal in 2020.

Collectively, the expert opinion testimony in the record indicates that the Petitioner's high-profile research with [redacted] has resulted in him becoming recognized as "one of the leading experts on how nephrology intersects with COVID-19." In recognition of this expertise, the Petitioner was invited by [redacted]¹ to generate and publish its official COVID-19 guidelines for Nephrotic Syndrome (NS) patients, a population that is at higher risk of death from the disease. [redacted] CEO of [redacted] states that the guidelines developed by the Petitioner have been accessed by patients and practitioners thousands of times.

In his role as director of clinical research at [redacted] the Petitioner also serves as a principal site investigator and steering committee member of the [redacted] [redacted] is a multi-site research consortium, funded by [redacted] and the [redacted] that aims to understand and advance treatments for nephrotic syndrome diseases. The record reflects that the Petitioner's contributions to the [redacted] group's published research have garnered him national recognition as a leading expert in the clinical research and treatment of NS. In this regard, the Petitioner provided evidence that he is one of a small number of nephrologists who has been designated by [redacted] as a [redacted]. The record, which has been supplemented on appeal, includes ample evidence that practicing nephrologists, clinical researchers and pharmaceutical companies recognize the Petitioner as a leading specialist in this field and have independently sought the Petitioner's expertise and collaboration on both the research and treatment of NS and other rare kidney diseases. The [redacted]'s [redacted] states that the Petitioner was invited to present on [redacted]'s activities at the organization's 2019 [redacted] [redacted] and emphasizes that he is regarded in the field as a "leading voice in advocating for kidney research."

¹ [redacted] is described as "the only organization committed exclusively to accelerate research for effective treatment for [redacted] and provide education and support that will improve the lives of those affected."

The record reflects that several of the Petitioner's other clinical research contributions have been highlighted in significant ways that have garnered him additional recognition in his field and which set him apart from other practicing nephrologists. For example, several of the expert recommendation letters submitted in support of the petition comment on the importance of the Petitioner's article [redacted] which was published in *BMC Nephrology* and was the subject of a feature article in the ASN publication *Kidney News* in 2020. [redacted] a professor at University of [redacted] explains that kidney biopsy, while essential to advancing research of kidney diseases, is associated with [redacted] complications, making it important to find interventions that reduce [redacted] risks. He states that the Petitioner's publication, which provides guidance on the safe and effective administration of [redacted] during biopsy "received significant attention amongst nephrologists and specialists working in allied fields." [redacted] similarly describes the Petitioner's article on the use of [redacted] in kidney biopsy as "practice changing research" in the field of clinical nephrology. [redacted] also discusses this research in his letter, noting that "[d]ue to the significance of [the Petitioner's] publication on [redacted] to all nephrologists, we also used it in one of ASN's main educational tools, the "Kidney Self-Assessment Program" (KSAP), which "reviews the essentials of nephrology" for those preparing for board certification and re-certification in the field.

[redacted] an associate professor of medicine at University of [redacted] emphasizes that the Petitioner's 2019 article [redacted] [redacted] has been cited in UPTODATE, which he describes as "a clinical design support resource relied on by hundreds of thousands of physicians to improve patient outcomes." [redacted] explains that the Petitioner's was the first research study investigating the incidence of severe acute kidney injury among civilian [redacted] victims and includes recommendations for recognizing and managing kidney injury among this population to ensure better patient outcomes. [redacted]'s letter also discusses the inclusion of the Petitioner's study in UPTODATE, noting that the article now serves as "a valuable resource for every nephrologist and [redacted] who cares for adult patients with [redacted] injuries in the United States."

Overall, the evidence related to the Petitioner's research contributions shows that his work has consistently been recognized for its significance, either in major media, by professional organizations and publications, and by inclusion in resources that physicians rely on to make clinical decisions regarding the treatment of patients with kidney injury or disease. These contributions are discussed in detail by experts who explain the influence of the Petitioner's work on both research and clinical practice, and who confirm that his collective contributions have resulted in his recognition as "one of the top nephrologists practicing today."

Finally, although many of the Petitioner's scholarly articles, and particularly those in which he applied his expertise to COVID-19 research, are quite recent, he offered a *Google Scholar* report reflecting a substantial number of citations to his published work. Further, the record reflects that he continues to publish scholarly articles in distinguished professional journals and is consistently invited as a presenter at the major conferences in his field of expertise.

When considered in the aggregate with the evidence discussed above, the Petitioner has demonstrated that his achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). We conclude that the record supports a finding

that the Petitioner is among the small percentage at the top of his field of endeavor with sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2)-(3).

III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national and international acclaim and that his achievements have been recognized through extensive documentation. Lastly, the Petitioner has shown that he intends to continue working in his area of expertise and that his work will substantially benefit the United States. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.