



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

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

In Re: 13476972

Date: MAR. 2, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, a research assistant professor, 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 does not establish, as required, that the Petitioner meets at least three of the initial evidentiary criteria for this classification. The matter is now before us on appeal.

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 conclude that the Petitioner has not met this burden. Accordingly, 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 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 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 currently employed as an assistant research professor at the [redacted] [redacted] University. He received his bachelor's degree in biomedical sciences from [redacted] University in 2004 and his doctor of philosophy from [redacted] [redacted] Veterinary College in the [redacted] in 2011. Following completion of his graduate study, he worked as a post-doctoral fellow at the University of [redacted] [redacted] School of Dentistry from 2011 to 2013, and as a senior post-doctoral fellow at the University of [redacted]'s Centre of Orthopaedic and Trauma Research in [redacted] from 2013 until 2017. The Petitioner's research focuses on the [redacted] bone formation and bone health.

### 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 Petitioner claims to meet four of the regulatory criteria, summarized below:

- (iii), Published materials in professional publications or major media;
- (iv), Participating as a judge of the work of others;
- (v), Original contributions of major significance; and
- (vi), Authorship of scholarly articles.

The Director determined that the Petitioner met two of these criteria, relating to judging the work of others and authorship of scholarly articles. The record supports these conclusions as it reflects that the Petitioner has peer reviewed manuscripts submitted for publication to professional journals including *Frontiers in Endocrinology*, *iScience*, and *Bone*, thus satisfying the judging criterion at 8 C.F.R. § 204.5(h)(iv). He has also authored scholarly articles in professional publications including *PLOS One*, *Journal of Bone and Mineral Research*, *Biotechniques*, and others.

On appeal, the Petitioner maintains that the Director erred in determining that he did not provide evidence satisfying the two remaining claimed criteria, discussed below. After reviewing all the evidence, we conclude that the Petitioner has not met the initial evidence requirements for this classification.

*Published material about the individual in professional or major trade publications or other major media, relating to the individual's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii)*

In support of this criterion, the Petitioner offered his *Google Scholar* citation history and submitted copies of six articles from scientific journals in which the authors cited to one of the Petitioner's published articles. The Petitioner explained that in the field of scientific research "articles are rarely written about a scientist or his or her work."

The Director acknowledged the submitted evidence but determined that citations to the Petitioner's work do not satisfy this criterion because they are not published material "about" the Petitioner. On appeal, the Petitioner reiterates that "in scientific research, articles are not written solely about a scientist or his or her work" and suggests that articles that cite to his work should therefore be sufficient to meet this criterion, noting that some of the articles directly reference him by name.

The Petitioner's claim is not persuasive. As noted by the Director, the published material must be "about" the individual, meaning that both the Petitioner and his work should be the focus of an article in order for it to satisfy all elements of the regulation at 8 C.F.R. § 204.5(h)(3)(iii). Here, the published materials submitted are about the research studies performed by the articles' authors. They are not about the Petitioner, nor are they about the dozens of other researchers whose work is also cited by the same authors. Although the Petitioner claims that articles about scientists are "rarely written," he is not exempted from his burden to establish that the submitted evidence meets each element of the regulatory criterion. Here, the evidence does not meet this burden.

*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 satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field.<sup>1</sup> 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 record reflects that the Petitioner submitted evidence of his publications and conference presentations, his citation history, copies of six articles that cite his work, and nine recommendation letters from colleagues, former colleagues and other scientists who discuss his research and standing in the field.<sup>2</sup>

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<sup>1</sup> 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> (finding that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

<sup>2</sup> While we do not discuss every letter individually in this decision, we have reviewed and considered each one.

On appeal, the Petitioner maintains that the previously submitted recommendation letters “explain in great detail the multiple original, significant contributions [he] has made in the field of musculoskeletal systems and [redacted]” and, when considered with evidence of his publications, presentations and citations, are sufficient to establish by a preponderance of the evidence that he satisfies this criterion. Specifically, he states that his journal articles and conference presentations provide evidence of his original contributions, while the expert letters explain their significance, and his *Google Scholar* citation report confirms that significance.<sup>3</sup>

The Petitioner highlights five original scientific contributions in his appellate brief, which we will discuss in turn below.

First, the Petitioner emphasizes that he was “the first scientist to discover [redacted] [redacted]” The record reflects that he published four articles based on his graduate research in this area, most notably an article published in *PloS One* in 2012 that had been cited 56 times at the time of filing. A letter from [redacted] Executive Director at the [redacted] states that “this novel work is of particular importance, as defects in skeletal [redacted] have been shown to result in an [redacted] and subsequent [redacted]” a “major concern due to the aging population of the US.” [redacted], who co-supervised the Petitioner’s Ph.D. project at [redacted] Veterinary College, explains that “identifying the regulatory mechanisms that govern [redacted] is essential for the development of new therapeutics to maintain bone mass and structure.” He also notes that the Petitioner presented his graduate research work at the [redacted] [redacted] annual meetings, where he received awards for best poster presentation and best scientific abstract.

The publication and presentation of the Petitioner’s research in this area establish the originality of the work, and we acknowledge that his research relates to understanding [redacted] diseases that impact many people as they age. The letters, however, are insufficient to confirm that the impact or influence of the Petitioner’s research contributions in this field has risen to the level of “major significance.” For example, [redacted] letter suggests that the Petitioner’s work resulted in incremental advancements in researchers’ understanding of [redacted] but he does not explain its remarkable impact on either further research or advancements in the field, or indicate whether or how it has been essential to the development of “new therapeutics.” A letter from [redacted], who also supervised the Petitioner’s graduate research at [redacted] Veterinary College, notes that his *PloS One* article has been cited over 50 times and states that “the high level of interest in his work demonstrates the importance of these findings.” However, the fact that the Petitioner has published articles that other researchers have referenced is not, by itself, indicative of a contribution of major significance. Without any additional context or comparative data, we cannot determine that 50 or more citations would reflect such significance in the Petitioner’s field.

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<sup>3</sup> The Petitioner listed 21 peer-reviewed articles in his cover letter, and we note that several of the letters mention his “more than 20 articles.” The submitted *Google Scholar* profile shows that he has been the author of approximately 50 publications, with approximately half of those having at least one citation. According to *Google Scholar*, nearly half of his cumulative citations were attributed to two review articles co-authored by him rather than to articles that described his original research. Citations to individual articles will be discussed in this section.

The Petitioner highlights another research study in which he [redacted] factors on [redacted] the regulation of a kidney regulating factor made by [redacted] [redacted] the effects of muscle secreted factors on [redacted] differentiation, and gene profiling of the [redacted]. He states that his work in this area “was so significant that he published an article about it,” referring to an article that appeared in *Molecular and Cellular Endocrinology* in 2015. He emphasizes that the article had been cited 74 times as of the date of filing this petition, as evidence that “many others in the field found the work compelling and important.” While we note that citation rates provide evidence of discussion of the Petitioner’s work in the field, they do not, by themselves, provide sufficient context to determine the nature of that discussion or the impact of his work on the field. That context must be provided by other evidence in the record. Here, none of the submitted recommendation letters discuss the Petitioner’s research in this area and he does not further explain how his research contribution has influenced or impacted the field.

The third contribution the Petitioner describes in his brief relates to his identification of “a novel mechanism by which [redacted].” In her letter, [redacted] explains that while [redacted] is “one of the most effective treatments currently available for inducing [redacted] formation,” its “mechanism of action is still not fully known.” She states that the Petitioner’s “identification of the activation of the [redacted] [redacted] has important therapeutic implications for diseases such as [redacted]” but she does not elaborate as to how the Petitioner’s research contribution has had a remarkable impact on further research or on the therapeutic use of [redacted].

The record reflects that the Petitioner published a paper titled [redacted] [redacted] [redacted]” in *PloS One* in 2015 which had garnered 24 citations at the time the petition was filed. The Petitioner also provided evidence that this paper was one of 108 publications cited in a 2018 review article by [redacted] titled [redacted] (*JBMR Plus*). [redacted] summarizes the research in this area over the last three decades, noting that many groups of researchers (including the Petitioner’s) have “illuminated many of the cellular and molecular mechanisms” through which [redacted]. The author concludes that a more thorough understanding of these mechanisms “will be necessary to design new and improved future [redacted] treatments.” The Petitioner argues that the evidence demonstrates that his research has brought the field “one step closer for finding therapies for diseases such as [redacted].” While the record supports a conclusion that the Petitioner made an original contribution through the publication of his paper, it does not demonstrate that this contribution is one that has been recognized for its major significance in the field.

The two remaining original contributions the Petitioner describes relate to his development and publication of [redacted]. The Petitioner explains that he [redacted] [redacted]” The record reflects that the Petitioner published this research in *Calcified Tissue International* in 2014 and that his article had been cited 56 times when this petition was filed. [redacted] states that this technique “has provided an abundant source of cells for studying [redacted]” and refers to scientists who relied on this technique to study [redacted] in their own published research. [redacted] a Professor of Orthopaedic

Research at University of [redacted] where the Petitioner developed the technique, states that the [redacted] model for studying disorders of [redacted] was important because most studies investigating [redacted] biology have used mouse cells and cell lines, “which do not adequately represent what occurs in human tissues.” He states that the Petitioner’s cell model has become a “standard technique” in his laboratory.

Finally, the Petitioner explains that he was the first scientist to develop a technique to extract [redacted] samples, noting that [redacted] had previously been extracted from rodent bones or other transformed cell lines. He states that this contribution is significant because [redacted] relevant for human drug therapies, which will allow other researchers to advance their own research in the field to find effective therapies for [redacted] diseases.” He published his research, [redacted] in *Bone* in 2016 and the record reflects that it had been cited 15 times as of the date of filing.

Several of the recommendation letters highlight these contributions. [redacted] who co-authored the paper, states that the technique will “further the study of diseases such as [redacted] and “enable researchers to study [redacted] in a model that is much more clinically relevant.” [redacted] states that the Petitioner’s cell model techniques “have had a major impact in the field of [redacted] biology” noting that [redacted] “are notoriously difficult cells to isolate from [redacted]” He further states that the cell culture models “have advanced not only [the Petitioner’s] own research but also that of other [redacted] researchers” and identifies three articles that relied on the Petitioner’s cell model techniques. [redacted], another co-author of the Petitioner’s *Bone* article, confirms that the Petitioner was “the first researcher to successfully [redacted]” and states that “[t]his technique is now used by other researchers in my laboratory, as well as scientists in the UK and Europe.” [redacted] also notes the use of this technique in laboratories located in Australia, Europe and Asia and states that “[t]his clearly demonstrates the wide-reaching impact of [the Petitioner’s research] and its national and international importance.” Finally, [redacted] of [redacted] University School of Medicine, states that both of the techniques described above “have become essential and widely used tools within the [redacted] field, as evidenced by the numerous publications in which these techniques were used.”

The letters confirm the originality of the Petitioner’s work in developing the two [redacted] cell model techniques discussed above. While the testimonial evidence corroborates the Petitioner’s claim that these techniques represented improvements to existing methods of [redacted], statements about the widespread implementation of these techniques appear to be based solely on the number of articles that cite to the Petitioner’s 2016 article published in *Bone* (15 citations) and 2014 article published in *Calcified Tissue International* (56 citations). Again, we emphasize that citation rates provide evidence of discussion of the Petitioner’s work in the field. They do not, by themselves, provide sufficient context to determine the nature of that discussion or the impact of his work on the field to meet this criterion. Further, the Petitioner has not presented sufficient evidence showing that the citation frequency noted confirms that his work has provoked widespread commentary or received notice from others in the field at a level consistent with “contributions of major significance in the field.” For example, he did not demonstrate that these citations are unusually high in his field or how they compare to other articles that the field views as having been majorly significant.

The submitted articles citing to the Petitioner's techniques indicate that researchers in his field are continually investigating new and more efficient methods for [redacted] and that the Petitioner's research has contributed to these advancements. For example, a 2019 article by [redacted] et al. (*International Journal of Molecular Science*) compares the Petitioner's [redacted] method described in his 2016 *Bone* article with two other methods for obtaining [redacted] through differentiation of [redacted]. The authors describe the Petitioner's method as "not very efficient" because the process is "very time consuming and only a few cells are obtained." The record reflects that other studies of [redacted] have relied on the Petitioner's techniques to obtain cells for research, but its overall impact or influence on research in the field has not been demonstrated.

While the record, including the reference letters, establishes that the Petitioner's research has value and has received some attention in the field, it is insufficient to confirm that the impact or influence of his work has risen to the level of "major significance" in the field. He has not submitted sufficient evidence demonstrating that his research has provoked widespread commentary or that it has received notice from others at a level indicative of its "major significance" in the field, as required under the criterion. Accordingly, based on the relevant documents in the record, the Petitioner has not shown, by a preponderance of the evidence, that he has made original contributions 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 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, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.