



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

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

In Re: 18039910

Date: SEP. 13, 2021

Appeal of Texas Service Center Decision

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

The Petitioner, a researcher and professor in the medical science field, 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 Texas Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner meets at least three of the ten 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 by a preponderance of the evidence. *See* Section 291 of the Act; *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 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 the 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

At the time of filing, the Petitioner indicated that he was employed as an associate professor in the department of biological sciences at [redacted] in South Korea.

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 determined that the Petitioner fulfilled two of the initial evidentiary criteria, judging the work of others in his field at 8 C.F.R. § 204.5(h)(3)(iv) and authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi). The Petitioner's documentary evidence indicates that he has peer reviewed manuscripts for professional journals such as *Cell Chemical Biology* and that he has served as a thesis and dissertation committee member at [redacted]. In addition, the Petitioner has authored scholarly articles in professional publications, including *Cell* and *Science*. Accordingly, we agree with the Director that the Petitioner fulfilled the judging and scholarly articles criteria.

On appeal, the Petitioner asserts that he also meets the criteria related to published materials and original contributions at 8 C.F.R. § 204.5(h)(3)(iii) and (v) and that he is otherwise eligible for the classification sought.

8 C.F.R. § 204.5(h)(3)(v) calls for evidence of the individual's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. Most of the evidence submitted in support of this criterion relates to the Petitioner's investigations of the molecular mechanisms of [redacted] in cells.

The record reflects that the Petitioner, while working as a researcher at [redacted] University, published an article titled [redacted] in *Cell*. The Petitioner explains that he “discovered how [redacted] . . . are activated during [redacted] activation, which is an essential discovery to treat and better understand a large number of [redacted] diseases.” He provided evidence that his article, for which he is credited as the first author, has been very highly cited by other researchers.

We agree with the Petitioner’s assertion that the Director did not give sufficient weight to detailed letters from experts that provided context regarding the importance of his research contributions [redacted] of [redacted] University explains that the findings the Petitioner published in *Cell* answered a long-standing question in the [redacted] concerning the interaction of two different membrane proteins [redacted] during [redacted] activation. He emphasizes that “the answer to this question is very important and critical for many scientists . . . to understand the fundamental mechanism by which the [redacted] can be activated, and to develop better and safer [redacted] for patients.” In addition, he further describes how the Petitioner’s study has impacted research in the field.

[redacted] of the University of [redacted] also discusses the Petitioner’s research in the [redacted] field, crediting him with making several important discoveries that “advanced the boundaries” of the field and “propelled the field forward.” In part, he notes that the Petitioner’s 2009 *Cell* article “has formed a focus for work by many groups in the past ten years to delineate the [redacted] interaction, how it leads to [redacted] and now naturally occurring mutations in [redacted] cause human disease.” [redacted] further explains how the Petitioner’s research has contributed to “uncovering fundamental mechanisms of how [redacted] can be differentially regulated in different cells types,” and “paving the way for development of drugs for [redacted] diseases.”

The record reflects that, in addition to the very high rates of citation for his *Cell* article, the Petitioner has received international patents for technologies that build upon this foundational discovery. In addition, the Petitioner provided evidence of the article’s influence by documenting ways in which other researchers have significantly relied on and built upon his research.

When considered in its totality, the Petitioner has provided sufficient evidence to establish the nature and significance of his scientific contributions and has demonstrated that he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(v). As the Petitioner has demonstrated that he satisfies at least three of the initial evidentiary criteria, we will evaluate the totality of the evidence in the context of the final merits determination below.

B. Final Merits Determination

Because the Petitioner submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim 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.

The Petitioner received his doctor of philosophy in biochemistry from [redacted] University in 2003. Between 2004 and 2011, he was employed by [redacted] University as a postdoctoral associate, research associate, and visiting professor in the Department of Neurobiology. He has since been employed in the Department of Biological Sciences at [redacted] where he currently serves as an associate professor and principal researcher for investigations in the [redacted] field funded by the National Research Foundation of Korea, the Ministry of Science, and the Korean Institute of Bioscience and Biotechnology.

As discussed above, the record demonstrates that the Petitioner has made valuable contributions to the medical sciences field through his discoveries related to the mechanisms involved in [redacted] and demonstrated that many other researchers have used this research as a foundation for their own important breakthroughs. The record contains evidence of the Petitioner's continued contributions and demonstrates that his discoveries have earned him sustained acclaim in this field.

For example, [redacted] Director and Head of Neuroscience Platforms at [redacted] [redacted] highlights the importance of the Petitioner's more recent paper, [redacted] [redacted] published in *Chemistry and Biology*. He explains that the Petitioner identified a compound called [redacted] that modulates the function of [redacted] as an [redacted] and describes its importance as a potential drug candidate. The record shows that the Petitioner has received patents for this compound and that several pharmaceutical companies and laboratories are now synthesizing and selling [redacted] for research applications worldwide. [redacted] also discusses the significance of this research, emphasizing that the [redacted] method the Petitioner used in his study to discover [redacted] "broke new ground in the search for therapeutic . . . modulators [redacted] proteins and offers important advantages over traditional drug discovery methods based on cell-based assays.

In addition, [redacted] explains that the Petitioner's lab at [redacted] "made the initial discovery of a [redacted] . . . that is the first and only example of a [redacted] that inhibits store operated [redacted], rather than [redacted] them. He discusses the significance of this discovery and details how it has "has sparked new ideas about how alternative [redacted] may shape [redacted] that guide development of skeletal muscle and fat tissue." The expert opinions regarding the significance of these more recent discoveries are supported by evidence that the Petitioner's ongoing work at his [redacted] laboratory continues to be influential in opening additional avenues for research and in efforts to develop a new class of [redacted] therapies based on targeting the [redacted]

The record further reflects that Korean news agency *Newsis* reported on the Petitioner's discovery of the [redacted] and its potential as an [redacted] therapeutic in an article titled [redacted] [redacted] Another study published by the Petitioner in *Science* was the subject of a Korean media

article titled [redacted] The Petitioner is quoted in both articles as the head of the [redacted] laboratory that published the findings, thus garnering him additional recognition for his work.

Regarding scholarly articles, the record contains evidence that the Petitioner has authored a considerable number of articles that were published in distinguished professional journals. As authoring scholarly articles is inherent to scientists and researchers, the citation history or other evidence of the influence of the Petitioner's articles is an important indicator of the impact and recognition that his work has had on the field and whether such influence has been sustained. In this case, the Petitioner has offered a report reflecting thousands of citations to his published work, as well as evidence demonstrating that the rate at which his articles have been cited is very high for his field, and that several of his articles have been particularly influential. The record also reflects that he continues to publish scholarly articles in his field and to accumulate citations to his work at a sustained rate. Overall, the number of research articles he has coauthored, and their unusually high rate of citation are commensurate with being among the small percentage at the top of his field.

The evidence shows that the Petitioner has obtained media coverage, patents, continuous research funding and significant attention from other experts in his field that is reflected in the citations to his work, as well as frequent invitations to present his work at national and international conferences in the United States, South Korea, and throughout Asia. In addition, he has received and completed independent requests to review a substantial number of manuscripts for renowned professional publications. These are all positive indications of the sustained acclaim he has received for his contributions.

When considered in the aggregate with the evidence discussed above, the Petitioner has 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. Finally, he has established that he intends to continue work in his area of extraordinary ability and that his entry will substantially benefit the United States. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.