



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

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

In Re: 17887008

Date: SEP. 17, 2021

Appeal of Texas Service Center Decision

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

The Petitioner, a cardiovascular diseases fellow, 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 satisfies 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. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we conclude that the Petitioner has not met that burden. Accordingly, 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 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

At the time of filing, the Petitioner indicated he was working as a cardiovascular diseases fellow at the University of [REDACTED]. The Petitioner's curriculum vitae reflects that he also worked for [REDACTED] as an internal medicine resident between 2013 and 2016. In 2012, he received his bachelor of medicine and bachelor of surgery degree from the [REDACTED] Memorial Hospital and [REDACTED] Medical College in [REDACTED] India. The Petitioner states that he is a specialist in cardiovascular disease and electrophysiology.

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). In denying the petition, the Director determined that the Petitioner fulfilled two of the initial evidentiary criteria, judging 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 record reflects that the Petitioner has peer reviewed a manuscript for the *Journal of General Internal Medicine*. In addition, he authored scholarly articles in professional publications including *Annals of Hepatology*, *Journal of Vector Borne Diseases*, and *Indian Heart Journal*. Accordingly, we agree with the Director that the Petitioner fulfilled the judging and scholarly articles criteria.

On appeal, the Petitioner asserts that the Director erroneously determined that he does not meet two additional criteria, related to original contributions in the field and leading or critical role for organizations or establishments, which we will discuss below.¹ After reviewing all the evidence in

¹ We note that the Director determined that the Petitioner claimed, but did not establish, that he meets the criterion related to membership in associations. *See* 8 C.F.R. § 204.5(h)(3)(ii). On appeal, the Petitioner does not contest the Director's finding that he does not meet this criterion or offer additional arguments. Therefore, we consider this issue to be abandoned. *See Sepulveda v. U.S. Att'y 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).

the record, we conclude that the record does not support a determination that the Petitioner satisfies the requirements of at least three 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 satisfy the regulatory criterion 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.² 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 claims that he has made original contributions of major significance in the field, as evidenced by his published research, citation record, letters from experts in the field, participation in professional conferences and symposia, and other evidence. On appeal, he emphasizes that the testimonial letters outline “the practical importance to the field of [his] past and ongoing research as well as his extraordinary clinical abilities.”³

Here, although the Petitioner provided evidence reflecting the originality of his research through recommendation letters praising him for his contributions, the letters are lacking detail explaining how his research findings have already been widely accepted and implemented in the field to the extent that they have been regarded as contributions of major significance. In general, the letters recount the Petitioner’s research and findings, and indicate their publication in journals and presentation at conferences.

For example [redacted] Professor of Medicine, Cardiology Division at [redacted] [redacted] describes the Petitioner’s novel finding of a role played by [redacted] tissue in the pathophysiology of [redacted] and his development of a new method called the [redacted] [redacted] to help with risk stratification for patients with the disorder. He indicates that the Petitioner’s research paper about this work was one of only six papers discussing clinical conditions that modify the response to [redacted] accepted for oral presentation at the American Heart Association Annual Scientific Sessions in 2017, but he does not explain how the Petitioner’s research findings went on to significantly impact or influence the field. As previously discussed, although funded and published work may be “original,” the publication or presentation of one’s work alone is not sufficient to establish that the work is of major significance.

[redacted] Director of Interventional Echocardiography and Professor of Medicine at [redacted] describes the Petitioner’s research findings as “extremely important” because they “provide an accurate means to measure the risk of recurrence of [redacted] as well as “an objective measure to decide whether to perform [redacted] at all.” She does not explain, however, how his work in that area or his [redacted] method has been particularly influential

² See 6 USCIS Policy Manual F.2 appendix, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (providing guidance on the review of evidence submitted to satisfy the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x)) (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).

³ Although we focus on those letters highlighted by the Petitioner on appeal and do not discuss every letter submitted, we have reviewed and considered each one.

or impactful in the field or explain how it has been applied by others, so as to constitute a contribution of major significance within the meaning of 8 C.F.R. § 204.5(h)(3)(v).

[redacted] Professor of Medicine at [redacted] states that the Petitioner's research project in [redacted] India that screens in real-time for [redacted] using [redacted] technology has "demonstrated the reliability of [redacted] that could provide a distinct national benefit for [redacted] of the United States" He describes the Petitioner as "one of the best residents we have trained" and asserts that this research project, "as well as others, have had a tremendous impact in international scientific and medical communities." However, he does not explain in detail how the Petitioner's work has been widely accepted or implemented in the field to support his conclusion that his work has "had tremendous impact in international scientific and medical communities," and he does not describe "others" of the Petitioner's research studies or speak to their originality or impact in the field.

[redacted] Assistant Professor in Medicine, Cardiovascular Division at [redacted] [redacted], describes an additional research study performed by the Petitioner that demonstrated that [redacted] was not a more accurate measure of [redacted] in certain patients with acute cardiac arrest when compared with measurements taken by [redacted] [redacted]. He speaks to the potential or future benefit of the Petitioner's work, stating that his research both in this area and in assessing the risk of recurrence of [redacted] "have produced important results that will aid physicians in the diagnosis of various heart ailments and will likely reduce the number of unnecessary invasive surgeries to prevent these various cardiac diseases," but his assertions do not demonstrate his research has already had an impact or influence commensurate with "major significance."

Some of the testimonials detail the benefits patients received from the Petitioner's clinical skills in individual cases. For example, [redacted] of the [redacted] relates details of the Petitioner's performance of a bedside [redacted] and diagnosis of an [redacted] heart attack in a young patient requiring immediate [redacted]. He claims that the Petitioner saved the patient's life through his "accurate diagnosis and correct decision regarding the patient's treatment." [redacted] chief of cardiovascular medicine at [redacted] provides that the Petitioner diagnosed and treated a rare form of [redacted] in an elderly patient who presented with an [redacted] and asserts that due to his "superior diagnostic ability" the patient avoided the cost and risk of surgical implantation of a permanent pacemaker. In addition, [redacted] and [redacted] emphasize the importance of the Petitioner's clinical experience in treating [redacted] and employing advanced diagnostic techniques and interventional procedures such as [redacted] cardiac catheterization, and insertion of transvenous pacemakers. Regardless of the field of endeavor, the plain language of the phrase "contributions of major significance in the field" requires evidence of an impact beyond one's employer and clients or customers. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-135 (D.D.C. 2013).

Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value. On the other hand, letters that lack specifics do not add value, and are not considered to be probative evidence that may form the basis for meeting this

criterion.⁴ Moreover, 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 Petitioner asserts that the above-referenced statements and those of others who have worked with him show that his “clinical abilities are far superior to others in the field.” Here, the letters do not, for example, indicate that therapeutic treatments were being developed as a result of the Petitioner’s research, that his research has already influenced medical practices, that his clinical or research work has already had a widespread impact, or that it substantially influenced the nature or direction of research being conducted in his area of specialty, and the record does not contain supporting evidence demonstrating this influence. The record contains ample evidence regarding the prevalence and seriousness of cardiac rhythm and cardiovascular disorders. While we recognize the importance of this field of medical research, the record does not contain sufficient evidence to support the Petitioner’s claim that his work has already had a major influence in his field such as, for example, by significantly influencing treatment practices, development of therapeutics, or the direction of further research.

Rather than providing specific examples of how the Petitioner’s work has already substantially impacted his field, the submitted reference letters point to the Petitioner’s anticipated publication of his research in respected journals and the presentation of his work at prestigious conferences as evidence that validates the importance of his work. In addition, on appeal, the Petitioner emphasizes that his published research has been cited over 60 times illustrating “the major contributions” he has made to the field. However, the Petitioner’s publications, conference presentations, and citation history, considered independently and in context with the evidence as a whole, are insufficient to satisfy this criterion. The record provides evidence that the Petitioner has published his research and presented at professional conferences in his field. Such evidence verifies that the Petitioner has shared his original research. To satisfy this criterion, he must demonstrate that the reaction from others in the field is such that it supports a finding that his work rises to the level of “contributions of major significance” in the field. For example, peer-reviewed presentations at academic symposia or 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 petitioner’s work as authoritative in the field, may be probative of the significance of their contributions to the field of endeavor.⁵

Regarding his citations, within his initial submission the Petitioner provided evidence from *Google Scholar* reflecting 50 cumulative citations. Specifically, the record shows that his three cited articles received 35 (*Annals of Hepatology*), 12 (*Journal of Vector Borne Diseases*), and 3 (*Indian Heart Journal*), citations, respectively.⁶ Generally, citations to a given article can serve as an indication that the field has taken interest in a petitioner’s work; however, the fact that a petitioner has published articles that other researchers have referenced, is not, by itself, sufficient to establish that he meets this criterion. Here, the Petitioner has not presented sufficient evidence establishing that the citation numbers recorded in *Google Scholar* confirm that one or more of his publications has provoked widespread commentary or received notice from others working in the field at a level consistent with “contributions of major significance in the field.” Although he has submitted evidence that his work has been cited by other researchers throughout the United States and internationally, he has not

⁴ See 6 USCIS Policy Manual, *supra*, at F.2 appendix.

⁵ *Ibid.*

⁶ The Petitioner’s remaining 10 articles garnered no citations.

sufficiently shown that his work has been cited as authoritative in the field or has otherwise influenced the field in a significant way. Further, 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 have remarkably impacted or influenced his field. Although the Petitioner's citations indicate that others in the field have referenced his work, he did not establish that the submitted citation statistics alone reach the threshold of "major significance" as required by the regulation at 8 C.F.R. § 204.5(h)(3)(v).

Further, the record indicates that the Petitioner submitted samples of several research 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.⁷ The submitted research articles reference the Petitioner's work as evidence of recent research, and, while the articles indicate that the authors' own research built upon the Petitioner's work, as well as the work of the other cited scientists, the Petitioner did not demonstrate that the overall field views his published findings as original contributions of major significance. For instance, the Petitioner provided a copy of a 2014 article titled [REDACTED]

[REDACTED] (*Indian Journal of Pathology & Microbiology*) that references the Petitioner's 2009 article in the *Annals of Hepatology*.⁸ However, the article does not distinguish or highlight the Petitioner's written work from the other cited papers, or otherwise indicate that the Petitioner's article is authoritative or otherwise viewed as being majorly significant in the field. Instead, the article briefly references his work as one of many previous studies assessing the short-term prognosis of [REDACTED]. The Petitioner has not shown that his published articles through citations rise to a level of "major significance" consistent with this regulatory criterion.

Considered together, the evidence consisting of the citations to the Petitioner's published findings, the citation statistics, and the reference letters from his colleagues 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 an original contribution of major significance in his field.

Further, the Petitioner has not established, as asserted, that publication of his articles in highly ranked or popular journals inevitably demonstrates that the field considers the research and work to be an original contribution of major significance. Moreover, a publication that bears a high ranking or impact factor reflects 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. 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. 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 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115.

⁷ See 6 *USCIS Policy Manual*, *supra*, at F.2 appendix; see also *Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

⁸ Although we discuss an example article, we have reviewed and considered each one.

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he has made original contributions of major significance in the field.

Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii)

On appeal, the Petitioner contends that he played a leading and critical role as a cardiovascular diseases fellow at the [redacted]. He also claims that he performs a leading and critical role in his current position as a clinical cardiac electrophysiology fellow at the [redacted].⁹ As it relates to a leading role, the evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.¹⁰ Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. It is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical.¹¹

Regarding his current position, he references a letter from [redacted] chief of electrophysiology at [redacted] who confirms the Petitioner's position as a clinical cardiac electrophysiology fellow.¹² However, the record establishes that the Petitioner did not hold this position at the time the petition was filed in March 2019. In its response to the Director's request for evidence (RFE), the Petitioner provided his [redacted] Fellow Appointment Agreement which shows that his appointment was to begin in July 2019. 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). Because this criterion requires evidence that he "has performed" in a leading or critical role in the past, and because the Petitioner must establish eligibility at the time of filing in accordance with 8 C.F.R. § 103.2(b)(1), he cannot establish his eligibility under this criterion based on a position he held beginning in July 2019, even if we were to determine that it otherwise satisfies all elements of this evidentiary criterion.

Regarding his former position as a cardiovascular diseases fellow, the Petitioner provided testimonial letters from [redacted] chief of cardiovascular medicine at [redacted]. The letters, however, do not establish that he held a leading position, nor do they contain specific information signifying the Petitioner's critical role.¹³ In his first letter, dated July 2018, [redacted] indicates he worked with the Petitioner for two years, and he provides that during that time the

⁹ The Petitioner previously claimed that he also meets this criterion based on his role as an internal medicine resident at [redacted] between 2013 and 2016. On appeal, the Petitioner claims eligibility based on the roles mentioned above and does not address his role with [redacted].

¹⁰ See 6 USCIS Policy Manual, *supra*, at F.2 appendix.

¹¹ *Id.*

¹² Although the Petitioner's appellate brief asserts that [redacted]'s letter is attached, the record in this case does not contain a copy of it. Rather, the Petitioner submitted [redacted]'s letter in support of a subsequent employment-based, second-preference petition he filed in December 2019.

¹³ See 6 USCIS Policy Manual, *supra*, at F.2 appendix (stating that letters from individuals with personal knowledge of the significance of a petitioner's leading or critical role can be particularly helpful in making this determination as long as the letters contain detailed and probative information that specifically addresses how the role for the organization or establishment was leading or critical).

Petitioner evaluated patients with life threatening cardiac problems and performed diagnostic and therapeutic procedures, including echocardiography, coronary angiography, angioplasty, and pacemaker insertions, independently and under supervision. [redacted] further emphasizes the Petitioner's work "is providing an enormously important national benefit to the United States" as there is a "great need for specialists" in the area of cardiology and the subspecialty of arrhythmia. Assuming the Petitioner's skills are unique, the classification sought was not designed merely to alleviate skill shortages in a given field.

In an additional letter, dated March 2019, [redacted] asserts that the Petitioner "has been a critical member of our cardiology team and an asset to our institution due to his one-of-a-kind clinical and research work" and claims "he is one of a very few number of physicians at our institution who have a wide range of experience in taking care of exceedingly complex patients who often come to the hospital with cardiac emergencies." [redacted]'s statements establish that the Petitioner performed admirably in his role as a cardiovascular diseases fellow in his division. They do not offer probative details explaining how his fellowship role is a "leading" role based on his placement within the school's organizational structure or provide sufficient support for a finding that his role was of significant importance to the school's standing or success consistent with the meaning of "critical role." Further, although he claims the Petitioner performed "one-of-a-kind" research work he does not discuss any of the Petitioner's research and publications or establish how his research activities within his division establish his leading role within [redacted].

In light of the above, the Petitioner has not shown that he satisfies 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, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.