



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

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

In Re: 19498633

Date: FEB. 25, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, an economic historian, 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 that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. 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 immigrant visas available to individuals 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).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). 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 (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

Between 2000 and 2011, the Petitioner studied economics and related fields at various universities in Turkey, culminating in a Ph.D. in Labor Economics from [redacted] University. He remained at [redacted] University as an assistant professor from 2012 to 2016, and as an associate professor from 2016 to 2017. While at [redacted] University, he published two books with titles that translate as [redacted] [redacted] 2013), which began as his doctoral thesis, and [redacted] (2015). Since 2019, the Petitioner has worked as an “economic history researcher and professor” at the [redacted] at the University [redacted] [redacted] in [redacted] Germany. Correspondence in the record indicates that the Petitioner intends to work as a visiting scholar at the University [redacted]

### A. Evidentiary Criteria

Because the Petitioner has not indicated or shown that he 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 have satisfied six of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the individual in professional or major media;
- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance; and
- (vi), Authorship of scholarly articles.

The Director concluded that the Petitioner met two of the criteria, relating to judging and scholarly articles. On appeal, the Petitioner asserts that he also meets the other claimed criteria.

Upon review of the record, we conclude that the Petitioner has satisfied at least one further criterion. The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

A translated certificate from the [redacted] [redacted] indicates that the Petitioner's book [redacted] "received Honorable Mention award in the context of the [redacted] in 2015." The record shows that the Petitioner received this award at the same ceremony at which the President of Turkey presented three [redacted] Academy Prizes. The record indicates that the [redacted] Academy Prize is more significant than a [redacted] award, but the record establishes that the [redacted] award is also nationally recognized, presented by Turkey's national government at a ceremony that received some degree of media coverage. The existence of a more important award does not disqualify the [redacted] award.

Because the satisfaction of a third evidentiary criterion is sufficient for us to proceed to a final merits determination, we need not discuss the Petitioner's other claims regarding membership in associations, published material about the Petitioner, and original contributions of major significance in the context of the initial evidentiary criteria. Below, however, we will discuss some of this evidence insofar as it relates to the larger claim that the Petitioner has earned sustained national or international acclaim.

#### B. Final Merits Determination

Because the Petitioner submitted the required 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.<sup>1</sup> In this matter, we determine that the Petitioner has not established eligibility.

We begin by noting that, while the Petitioner has satisfied the requirements of three of the regulatory criteria, two of these activities appear to be routine among academic scholars. The Petitioner's authorship of scholarly articles meets the requirements of 8 C.F.R. § 204.5(h)(3)(vi), and his peer review of manuscripts by other scholars constitutes judging the work of others under 8 C.F.R. § 204.5(h)(3)(iv).

The Petitioner relies heavily on the response to his 2013 book [redacted]. We acknowledge that this book won an award at a ceremony attended by the President of Turkey, and was the subject of a review on a major Turkish news site, [redacted].<sup>2</sup> The Petitioner has submitted several letters from individuals asserting that the book is an important contribution to scholarship in his field. But the response to this

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<sup>1</sup> *See also 6 USCIS Policy Manual F.2(B)(2)*, <https://www.uscis.gov/policymanual> (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established, by a preponderance of the evidence, the required high level of expertise for the immigrant classification).

<sup>2</sup> The Director concluded that the [redacted] article does not meet the requirements of 8 C.F.R. § 204.5(h)(3), in part because the article was published without the required author credit. We do not have the discretion to disregard regulatory requirements, but we can give the article due consideration in the broader context of the final merits determination.

one book, published about seven years before the Petitioner filed his petition in 2020, does not rise to the *sustained* acclaim that the statute requires.

A *Google Scholar* printout submitted with the petition shows that [redacted] had garnered 34 citations between 2013 and 2020. The Petitioner provides no context to show that only highly influential works in his field would achieve 34 citations over the course of seven years, and he does not otherwise explain how this number of citations places him in the small percentage at the very top of the field as the regulations require. [redacted] is, by a wide margin, the Petitioner's most heavily-cited scholarly work. According to the *Google Scholar* printout, each of the Petitioner's other cited works had accumulated between 1 and 14 citations at the time of filing. This evidence is insufficient to establish his sustained national or international acclaim.

Furthermore, the *Google Scholar* printout does not indicate that the Petitioner's output after [redacted] has attracted comparable notice. Out of all the Petitioner's published work after 2015, only one article had received one citation. Eight months after the filing date, the Petitioner submitted an updated *Google Scholar* printout, showing some increase in the total number of citations, but the second-most-cited article remained at 14 citations, and once again there was only one citation for one article from 2017. A third printout, submitted on appeal, shows citation figures from 13 months after the filing date. Citations of [redacted] continue to accumulate, but the second-listed item has gained only one further citation. Citation of the Petitioner's post-2015 work continues to be minimal, with two articles from 2017 showing one citation each. Taken together, the citation information does not show that the field's response to his wider body of work is consistent with *sustained* national or international acclaim as the statute requires.

Also, the first two *Google Scholar* printouts do not show any published work after 2017, either cited or uncited. (The third printout, submitted on appeal, shows one uncited article from 2019 and another from 2020.) The burden is on the Petitioner to show eligibility at the time of filing, and he "must continue to be eligible through adjudication." See 8 C.F.R. § 103.2(b)(1). We acknowledge the Petitioner's submission of evidence showing that he would soon make presentations at academic conferences, but he has not shown that participation of this kind is limited to those scholars who have achieved national or international acclaim. (We note that the Petitioner pointed to these presentations as examples of his original contributions of major significance under 8 C.F.R. § 204.5(h)(v), but if the work had not yet been presented to the field, then it is premature at best to claim that this then-unpublished work was of major significance.)

The Petitioner has submitted a number of letters which, he states, attest to the significance of his work. Most of these letters are from colleagues and former students. Some of the letters indicate that the Petitioner brings a new approach to historiography, relying on previously unexamined archival materials, providing new insights into the labor [redacted] in [redacted] and offering a new perspective on historical research that emphasizes its ongoing relevance to modern events. But the record does not establish how these attributes have influenced historiography in Turkey or beyond, rather than simply representing traits that the letter writers admire in the Petitioner's writings.

Two letters are from individuals who have cited the Petitioner's published work. Both of these letters are very brief – two paragraphs each – and they offer emphatic but general assertions. One letter indicates that the Petitioner "has published the most prominent and detailed studies on the [redacted]

labor history and made huge contributions to the area of economic history.” The other letter goes into slightly more detail, indicating that [redacted] is “a reference point for all scholars involved in the field of [redacted] history worldwide,” because the Petitioner “not only dealt with all the unlike teams of employees individually, but he also investigated the peculiar socio-economic conditions prevailing in [redacted] and their crucial result on the workers’ status.” The brevity of the letters, and general nature of the assertions, do not offer sufficient support for the Petitioner’s claim to be an acclaimed researcher at the top of his field.

Regarding his intended work in the United States, the Petitioner submits a printout of an email conversation from July 2019, and asserts that it shows that a [redacted] political and economic historian” has expressed an “existing interest in working with [the Petitioner] at [redacted] In the email exchange, the Petitioner introduced himself and stated: “I aim to continue my research in the USA by July 2020. . . . I believe that it would be a great opportunity for me to study with you at [redacted] as a visiting scholar for one-year (from July 2020 to June 2021).” The [redacted] professor’s response reads, in part: “Thank you for your interest in [redacted] and your interest in working with me. I look forward to working with you.” The Petitioner has highlighted the latter sentence in yellow ink. There is no direct indication that the [redacted] professor was already familiar with the Petitioner’s work, and no indication that the professor’s message was more than a polite acknowledgment of a routine inquiry about a potential fellowship. The record does not show that, beyond this expression of intent, the Petitioner took any formal steps to apply for a visiting scholar position, or that [redacted] formally accepted him into such a position. Taken in context, this brief communication does not indicate that the Petitioner is a recognized figure in his field as he seeks to establish.

For the reasons discussed above, the Petitioner has not demonstrated sustained national or international acclaim.

### III. CONCLUSION

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. U.S. Citizenship and Immigration Services 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 recognition of his work is indicative of the required sustained national or international acclaim or demonstrates 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 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).

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.