



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

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

In Re: 19633653

Date: FEB. 25, 2022

Appeal of Nebraska Service Center Decision

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

The Petitioner, a researcher in biochemistry, 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 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).

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 earned a Ph.D. in biochemistry from the National Institute [redacted] [redacted] in [redacted] India, in 2007. While the record does not provide a complete accounting of his employment history, it does show that he has spent several years conducting research in the United States as a J-1 nonimmigrant exchange visitor at various universities, most recently [redacted] University in [redacted] Missouri. His research has touched on various areas of medical interest, sometimes using animal models to study [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 five of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (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 authorship of scholarly articles. On appeal, the Petitioner maintains that he also meets the other three claimed criteria.

Upon review of the record, we agree with the Director that the Petitioner has satisfied the criteria related to judging and scholarly articles. We will discuss the other claimed criteria below.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).*

The Petitioner initially asserted that he satisfies this criterion through his receipt of a doctoral degree; qualification for a lectureship from India's Council of [redacted] and a senior research fellowship from the Indian Council of [redacted]. The Petitioner did not submit any evidence that these achievements constitute prizes or awards, rather than professional credentials. The Petitioner does not pursue these claims on appeal.

Following the Director's issuance of a request for evidence (RFE), the Petitioner has claimed to satisfy this criterion through two certificates from the [redacted] Publications Board, indicating that he has "been approved as a subject of biographical record in [redacted] for 2011-2012 and 2016-2017. The certificates indicate that "inclusion . . . is limited to individuals who possess professional integrity, demonstrate outstanding achievement in their respective fields and have made innumerable contributions to society as a whole." Apart from copies of the certificates themselves, the Petitioner has not submitted any evidence to establish that his [redacted] inclusion is nationally or internationally recognized as a prize or award for excellence in his field. The certificates are not evidence of their own national or international recognition. Furthermore, the certificates do not identify the "outstanding achievement" or "innumerable contributions" that earned the Petitioner a place in the publication. Without objective, independent evidence to provide context, the certificates do not satisfy the regulatory requirements.

On appeal, the Petitioner submits a printout of the *Wikipedia* entry for [redacted] *Wikipedia* articles lack indicia of reliability and warrant very limited probative weight in immigration proceedings. *Matter of L-A-C-*, 26 I&N Dec. 516 (BIA 2015); *see also Bing Shun Li v. Holder*, 400 Fed.Appx. 854, 857-58 (5th Cir. 2010) (expressing disapproval of the reliance on *Wikipedia* and or similarly unreliable internet sources); *Badasa v. Mukasey*, 540 F.3d 909, 910-11 (8th Cir. 2008) (holding that an article from the online encyclopedia *Wikipedia* is not a reliable source of evidence in immigration proceedings). Even then, the article itself mostly focuses on the publisher's history, and does not indicate that inclusion in [redacted] is a nationally or internationally recognized prize or award.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien'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).*

The Petitioner asserts that he meets this criterion because one of his articles "got accepted as a book chapter," and others were cited in forums other than journal articles. Neither the book nor a promotional press release advertising the book constitutes qualifying published material about the Petitioner.

Regarding the specified citations of his work that the Petitioner points to for this category, none of the articles is about the Petitioner, or appears to emphasize the Petitioner's work over the other cited works. One of the three named citing works is an e-book chapter, which the Petitioner submits with the handwritten annotation "look for page #37." Page 37 is the first page of the article's bibliography, listing 17 articles, including one by the Petitioner. The article is about [redacted] [redacted]. The second citing work, from a website about rare diseases in India, describes [redacted] [redacted] and [redacted] disease found in a region of Southern India. The Petitioner co-wrote two of the seven articles cited as references. The third citation is a listing in a [redacted] database. The entry for a

[redacted] called [redacted] lists 53 articles, including one by the Petitioner, not as sources, but as examples of scholarly literature discussing the [redacted]. The submitted materials are not about the Petitioner. Rather, they include works by the Petitioner in bibliographies or lists of references. The Petitioner's evidence, therefore, does not meet the regulatory requirements for the criterion.

*Evidence of the alien'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).

The Petitioner asserts that he meets this criterion because he “published 14 research papers in peer reviewed journals and their total number of citations [is] 446.” A printout from *Google Scholar* lists 16 articles published between 2007 and 2014. Five of those articles have been cited between 45 and 124 times each; eight others were cited between 4 and 17 times. At the time he submitted the printout, the Petitioner did not submit evidence to give context to the citation figures.

In response to the RFE, the Petitioner submitted some of the citing publications and other materials that refer, in various ways, to his publications. These materials show that the Petitioner has contributed useful knowledge to his field, but the major significance of those contributions is not self-evident. Describing contributions does not inherently establish their significance without further context. For example, many of the submitted materials indicate that, *circa* 2010-11, the Petitioner was on a research team at the University [redacted] that developed a [redacted] model with a [redacted] [redacted] which other researchers have used in subsequent research. The reliance on this [redacted] model appears to underlie many of the citations of the Petitioner's work. But the record does not specify the Petitioner's role in developing the model. An associate professor at [redacted] provided a letter on the Petitioner's behalf, praising the Petitioner's skills but providing little information about the specific nature of the Petitioner's contributions. In the letter, the professor refers to “a [redacted] model . . . that I have created”; he gives no indication that the Petitioner was involved in the creation of the model, rather than other tasks (such as subsequent experiments regarding [redacted]).

The Petitioner also does not show that the mouse model developed at [redacted] has been of greater importance to medical research than countless other [redacted] models developed elsewhere. In short, the information about the [redacted] model *relates to* some of the Petitioner's contributions, but does not specifically identify those contributions or inherently establish their major significance relative to the field.

On appeal, the Petitioner submits web printouts from a website called Dimensions, which evaluates citation histories for given articles and indicates that some of his articles are “highly cited” or “extremely highly cited.” This information provides some context for the citation figures submitted previously, but the record still lacks independent, objective evidence to explain how the Petitioner's contributions are of major significance such that his achievements have been recognized in his field of expertise.

Beyond the citation information, the Petitioner has submitted letters from various mentors, describing the work that the Petitioner did in their laboratories, and expressing the opinion that the Petitioner is a highly skilled researcher. But these individuals do not explain how his contributions are of major significance in the field. We note that, while the Director discussed these letters in the context of the Petitioner's contributions, the Petitioner originally submitted them more generally as “recommendation letters.”

While the Petitioner has amply documented his involvement in published medical research, the record does not establish how his contributions are of major significance to 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 lesser 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 conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

We note that, while the Director concluded that the Petitioner satisfies two of the regulatory criteria, neither of those criteria includes internal elements that indicate sustained national or international acclaim. The Petitioner has written scholarly articles, although the *Google Scholar* printout submitted with the petition does not show any articles published after 2014. The Petitioner has not explained or addressed this dropoff in research output despite his position as a researcher in biochemistry. He has also acted as a judge by peer-reviewing articles written by others, but both of these activities appear to be routine for researchers in the Petitioner's field. Additionally, as the Petitioner's individual contribution to the research cited has not been fully explained, had the case reached a final merits determination, these factors would have received greatly diminished weight.

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.