



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

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

In Re: 22320416

Date: SEP. 06, 2022

Motion on Administrative Appeals Office Decision

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

The Petitioner, a researcher in biochemistry, seeks classification as an alien 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 met the initial evidence requirements for this classification by submitting evidence of a major, internationally recognized award or meeting three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). On appeal, we agreed with the Director that the Petitioner met two of these criteria, relating to his authorship of scholarly articles and participation as a judge of the work of others, but did not meet any of the remaining three criteria he claimed. The Petitioner now submits a motion to reopen.

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 review, we will dismiss the motion.

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.

A motion to reopen is based on documentary evidence of new facts. The requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2)]. We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. ANALYSIS

As noted above, the Director concluded that the Petitioner met the evidentiary criteria relating to his authorship of scholarly articles and his participation as a judge of the work of others in his field. In our previous decision, we agreed with the Director regarding those two criteria, and determined that the Petitioner did not meet the following additional criteria that he claimed:

- (i) Lesser nationally or internationally recognized prizes or awards;
- (iii) Published material about the individual in professional, major trade or other major media; and
- (v) Original scientific contributions of major significance in the field

On motion, the Petitioner submits hundreds of pages of previously submitted evidence. As stated above, a motion to reopen is based on documentary evidence of new facts. Because the vast majority of the evidence submitted on motion does not include new facts, it will not be considered in this decision.

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)

In support of his claim to the criterion at 8 C.F.R. § 204.5(h)(3)(i), the Petitioner submits a new letter from [redacted] which confirms his inclusion in [redacted] in the World 2010-11 and [redacted] in Science and Engineering 2016-17. However, this letter does not include new information regarding the inclusion of his biography in these publications, and is accompanied by previously submitted evidence regarding [redacted] selection process. As this evidence does not include new facts, it will not be considered.

The Petitioner also submits new evidence relating to his qualification for a lectureship from India's Council of Scientific and Industrial Research and a senior research fellowship from the Indian Council of Medical Research. In general, we will not address issues that were not raised with specificity on appeal. The Petitioner did not contest the findings of the Director regarding this evidence or offer additional arguments in his appeal brief. We therefore consider this issue to have been waived. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n. 2 (BIA 2009).

Because the Petitioner has not submitted new evidence which demonstrates his receipt of a nationally or internationally recognized award, we conclude that he does not meet this criterion.

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)

In order to meet this criterion, a petitioner must demonstrate that the published material is about them and relates to their work in the field, and that the material was published in one of the qualifying types of media.

We previously considered evidence of the Petitioner's authorship of a book chapter as well as a press release regarding that chapter, but concluded that neither were about the Petitioner. On motion, the Petitioner now submits additional copies of that same press release which were published on different websites. However, as we have already determined that this material is not about him, the fact that it was published in other media is not of consequence. No version of the press release makes mention of the Petitioner beyond listing him as an author. Further, such marketing materials created for the purpose of selling a product or promoting a service are generally not considered to qualify under this criterion. See *6 USCIS Policy Manual F.2, Appendices*. The same reasoning applies to another press release, this one from the University of [REDACTED] which likewise describes a research project and lists the Petitioner as a contributor.

The Petitioner also submits evidence of a paper he co-authored being referred to on the website www.malacards.com. The submitted webpages appear to serve as reference material for [REDACTED] and provides links to several sources of information. As we stated in our previous decision regarding articles which cited to the Petitioner's published work, this material is not about him or any of the authors of other referenced material, nor does it emphasize his work over that of others whose work is also cited or referenced.

The newly submitted evidence does not show that material about the Petitioner and his work has been published in any of the qualifying types of media. As such, it does not change our previous determination that he does not meet this 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)

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only have they made original contributions, but that those contributions have been of major significance in the field. For example, they 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. See *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013).

On motion, the Petitioner submits complete copies of several scholarly articles that he co-authored, whereas the record previously included only two pages of each of these articles. However, our decision on appeal did not raise any issues about the authenticity of the previously submitted evidence. Because the complete copies of these articles do not add new evidence of either the originality or the significance of the Petitioner's research contributions, they do not meet the requirements of a motion to reopen and will therefore not be considered. Other evidence submitted with this motion in support of this criterion include a list of the Petitioner's publications and citations from Google Scholar and metrics which put those citations into context, all of which had been previously submitted and reviewed in our appeal decision.

The single new piece of evidence submitted in support of this criterion is a letter from [redacted] [redacted] of the University of [redacted] who had also submitted a letter with the Petitioner's appeal. He describes the Petitioner's research, much as he did in his previous letter, but this time with greater focus on his development of a [redacted] used to study [redacted] disease and [redacted] while at [redacted] [redacted] explains that this [redacted] will help to better understand these diseases and test for treatment strategies. He concludes by stating that the model "will be used in more studies and uncover key mechanisms of the disease." Although [redacted] explains that the Petitioner used this model in his studies of [redacted] he does not indicate that other researchers other than the Petitioner and his collaborators have used it. While his letter indicates that there is potential for the [redacted] to have a significant impact on the field, it does not show that the [redacted] has already done so.

Based on our review of the new evidence submitted on motion, we conclude that it does not overcome our previous decision that the Petitioner does not meet this criterion.

III. CONCLUSION

Apart from the letter from [redacted] the evidence submitted with this motion does not include new facts, and thus does not meet the requirements for a motion to reopen. After consideration of that evidence, the Petitioner has not demonstrated that he has met any of the additional evidentiary criteria he has asserted, not has he shown that he is otherwise eligible for the requested classification.

ORDER: The motion to reopen is dismissed.