



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

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

In Re: 25983002

Date: APR. 7, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a senior project manager, 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 met the initial evidentiary requirements through evidence of a one-time achievement or meeting at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. We decline the Petitioner's request for oral argument. 8 C.F.R. § 103.3(b).

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter *de novo*. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). 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 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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 their 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 they 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).¹

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).²

II. ANALYSIS

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 acknowledged that the Petitioner met the criteria relating to judging and high salary, but determined that he did not satisfy the awards, membership, original contributions of major significance, and leading or critical role criteria. After reviewing all the evidence, we conclude the Petitioner has not shown that he satisfies the requirements of at least three criteria.

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)

To meet this criterion, the Petitioner must demonstrate his prizes or awards are nationally or internationally recognized for excellence in the field of endeavor.³ Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field including, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.⁴

Here, the Petitioner provided evidence indicating that received an award for “Outstanding Product Design” from [REDACTED] in February 2020. The Petitioner also submitted various screenshots from [REDACTED] website that focus on the organization’s yearly conferences, but this documentation does not relate to his specific award or demonstrate its significance in the field of endeavor. The record does not include evidence

¹ *See* 6 *USCIS Policy Manual* F.2(B)(2), <https://www.uscis.gov/policymanual> (indicating that USCIS officers should first “[a]ssess whether evidence meets regulatory criteria: Determine, by a preponderance of the evidence, which evidence submitted by a petitioner objectively meets the parameters of the regulatory description that applies to that type of evidence”).

² *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (stating that in the final merits determination, USCIS officers should evaluate all the evidence together when considering the petition in its entirety to determine if a petitioner has established, by a preponderance of the evidence, the required high level of expertise for the immigrant classification).

³ *See* 6 *USCIS Policy Manual* F.2, *Appendices*, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

⁴ *Id.*

demonstrating that the Petitioner's award was recognized by the field in general rather than mainly limited to [] conference participants. Nor does the evidence show that any media coverage or attention relating to the Petitioner's award rises to the level of national or international recognition. Without further evidence regarding its national or international significance in his field, the Petitioner has not demonstrated that his award is a nationally or internationally recognized award for excellence in the field. For these reasons, the Petitioner has not established that he meets this regulatory criterion.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.
8 C.F.R. § 204.5(h)(3)(ii)

The Petitioner submitted documentation indicating that he is a member of the Institute of Electrical and Electronics Engineers (IEEE). He also presented information about the IEEE's membership criteria. The Director determined that these criteria (including years of experience, publication of papers, or development of courses) did not rise to the level of outstanding achievements. The Petitioner does not contest the Director's determination on appeal. Without evidence indicating that the selection process for IEEE requires outstanding achievements and that admission to membership is judged by recognized national or international experts, we agree with the Director and conclude that the Petitioner 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 has he made original contributions, but that they have been of major significance in the field.⁵ 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.

As evidence for this criterion, the Petitioner provided letters of support from colleagues discussing his projects for his employer and its clients. The Director addressed each of these letters and determined that they did not show the impact of the Petitioner's work at a level indicating original contributions of major significance in the field.

In his appeal brief, the Petitioner requests that we consider updated recommendation letters from three of his colleagues. As discussed below, these letters do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to demonstrate the nature of specific "original" contributions that the Petitioner has made to the field that have been considered to be of major significance.

A letter from O-P-, a senior technology architect with N-M- Inc., states that he and the Petitioner worked together at N-M- for six years. O-P- asserts that the Petitioner's work is "of major significance in his overall field due to his original contribution in building niche product/process not only in N-M-

⁵ See 6 USCIS Policy Manual, Appendices, *supra*, at F.2.

Inc., but with other organizations as well like H- Inc. who got benefited with [the Petitioner's] highly experienced problem-solving skills.”⁶ Here, the lack of specific, detailed information does not show how the Petitioner's past work at N-M- Inc. or H- Inc. constitutes original contributions of major significance in the field consistent with this regulatory criterion. In addition, while O-P- contends that the Petitioner's work in machine learning and artificial intelligence helped build a process technology that N-M- utilizes for servicing thousands of its customers/users seamlessly, he does not explain how this technology has impacted the overall field rather than being limited to N-M-'s customers and users.

In his letter, A-A-, a senior product engineering manager with C- company, asserts that the Petitioner has contributed to C- company, a technology services and consulting business, as a subject matter expert in its cloud automation/integration engineering department. A-A indicates that the Petitioner helped his “department to achieve best performing revenue earning in C- company. [The Petitioner] developed multiple products for C- company (such as [redacted] etc.) used by C- company clients for their business needs with reduced cost and quick to market.” The Petitioner's evidence, however, does not show that his work on these products has affected his industry in a substantial way or otherwise constitutes original contributions of major significance in the field. Nor has the Petitioner demonstrated that his original contributions at C- company have influenced the information technology industry to the extent that they are of major significance in his field.

Additionally, a letter from G-M-, a researcher with M-M- company, states that the Petitioner “conducted a few conferences in my company He explained how we can upgrade our technology to take benefits using machine learning and artificial intelligence. He showed his previously developed products used by his company and their clients to fulfill goals of fixing repetitive problems using AI & machine learning.” G-M- further asserts that M-M- company “started using [the Petitioner's] ideas in our company and getting better result in very short span of time,” but he did not offer specific examples of how Petitioner's work has risen to the level of a contribution of major significance in the field.

Here, the letters do not contain specific, detailed information explaining the unusual influence or high impact that the Petitioner's work has had in the overall field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.⁷ On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁸ 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). Without sufficient information and evidence demonstrating that his work constitutes original contributions of major significance in the field, the Petitioner has not established that he meets this criterion.

⁶ The Petitioner's resume indicates that he has worked on a project for H- Inc. since July 2021.

⁷ See 6 USCIS Policy Manual, *supra*, at F.2(B)(2).

⁸ *Id.* See also *Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

Evidence that the alien 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)

To qualify under this criterion, a petitioner must show that they played a leading or critical role for an organization or establishment, and that that organization or establishment has a distinguished reputation. When evaluating whether a role is leading, we look at whether the evidence establishes that the person is or was a leader within the organization, or a department or division thereof. A title, with appropriate matching duties, can help to establish that a role is or was leading. For a critical role, we look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment.⁹

The Petitioner maintains on appeal that he has performed in a leading or critical role for C- company.¹⁰ His appellate submission includes a letter from D-R-, a human resources representative with C- company, stating:

As Manager – Projects, [the Petitioner] was responsible for critical [*sic*] in his field and for organizations (C- company and clients). He was responsible for completing the project lifecycle including project planning, scope/ schedule/ resource/ finance/stakeholder management and cross functional team management. He was responsible for planning project approach

As Sr. Manager – Projects, [the Petitioner] is responsible for critical [*sic*] in his field and for organizations (C- company and clients). He is responsible for technical delivery of portfolios that span a broad range of systems and wide spectrum of technologies. He is responsible for the growth of client relationship and rapid business expansion within assigned accounts.

The Petitioner also points to the letter from A-A- which asserts that the Petitioner “is one of our topmost performing critical employees in C- company.” A-A- further states:

I witness many projects in past where C- company stake was on risk, we were almost losing business to other competitors due to high escalation from client related to work deliverables, tight timeliness and team management/orchestration issues. . . . As soon as we deployed [the Petitioner] for helping existing project team, we started getting good results day-to-day. . . . [The Petitioner] helped us in understanding grass root problems, motivate/orchestrate project team to take best out of them We saved multiple such projects in past because of [the Petitioner's] excellence in his field

While the letters from D-R- and A-A- indicate that the Petitioner has effectively managed his “assigned accounts” and “projects,” their statements are not sufficient to demonstrate that the Petitioner's role for C- company was leading or critical. Their letters help show that the Petitioner

⁹ See 6 USCIS Policy Manual, Appendices, *supra*, at F.2.

¹⁰ Here, the Petitioner claims a leading or critical role for his company rather than for a department or division within his company. Furthermore, even if he had claimed a leading or critical role for his particular department, which he has not, he has not demonstrated that it has a distinguished reputation.

performed in a leading or critical role for his particular accounts and projects, but they do not show that his role was leading or critical for the company. For example, the Petitioner did not provide an organizational chart or other similar evidence to establish where his role fit within the overall hierarchy of C- company to demonstrate a leading role. Nor does the evidence demonstrate that he has contributed to C- company in a way that was of significant importance to the outcome of its business operations.¹¹ For these reasons, the Petitioner did not establish that he meets this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

We withdraw the Director's determination that the Petitioner satisfies this criterion. In order to meet this criterion, a petitioner must demonstrate that his salary or remuneration is high relative to the compensation paid to others working in the field.¹² The Petitioner claims eligibility for this criterion based on his salary with C- company as a senior project manager. In response to the Director's request for evidence (RFE), he provided his 2021 Form W-2, Wage and Tax Statement, showing earnings of \$118,355.78. The Petitioner's RFE response also included an October 2022 email from C- company stating that his salary was set to increase to \$137,817.00 that same month. This salary increase, however, post-dates the filing of the petition. Eligibility, however, must be demonstrated at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12).

As evidence that his salary is high relative to others in the field, the Petitioner presented information from the U.S. Bureau of Labor Statistics (BLS) showing mean hourly wages for broad occupational groups such as management, business and financial operations, computer and mathematical, and architecture and engineering. In addition, he provided salary data from CareerOneStop.org, Indeed.com, and Glassdoor.com showing mean and median salary data for the positions of project management specialist, senior project manager, and senior manager. Regarding mean and median salary data, the Petitioner must submit evidence showing that he has earned a high salary or other significantly high remuneration relative to others in his field rather than a salary that is above average or that places him in the top half of his field. While the information from CareerOneStop.org and Glassdoor.com also shows a salary range from low to high, the Petitioner's earnings of \$118,355.78 falls below the high range in both instances.

Furthermore, the Petitioner has not shown that the broad BLS occupational groups and project management specialist position represent proper bases for comparison. The Petitioner must present evidence showing that he has earned a high salary or significantly high remuneration in comparison with those performing similar services in the field. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). Here, the Petitioner has not established that the

¹¹ For instance, the Petitioner has not shown that the amount of revenue generated from the specific projects he has managed represents a significant percentage of C- company's reported earnings.

¹² *See* 6 USCIS Policy Manual, Appendices, *supra*, at F.2.

comparative salary data he offered shows that his earnings are high relative to others in his field. Accordingly, we withdraw the Director's finding that the Petitioner meets 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. *See Matter of Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design,"); *Hamal v. Dep't of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"); *see also Hamal v. Dep't of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at * 1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation"))).

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 sustained 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.