



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

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

In Re: 22669626

Date: JULY 27, 2023

Appeal of Texas Service Center Decision

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

The Petitioner seeks to classify the Beneficiary as an individual of extraordinary ability in the sciences. *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 the Petitioner did not establish that the Beneficiary satisfied 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.

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 a beneficiary's 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 a beneficiary 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 authorship of scholarly articles).¹

Where a beneficiary 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 the Beneficiary has received a major, internationally recognized award, she 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 Beneficiary met the criteria relating to judging and authorship of scholarly articles, but determined that she did not satisfy the awards, membership, published material, and original contributions criteria. On appeal, the Petitioner argues that the Beneficiary meets the membership, published material, and original contributions criteria.³ After reviewing all the evidence, we conclude the Petitioner has not shown that the Beneficiary satisfies the requirements of at least three criteria.

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 contends that the Beneficiary's position with the Petitioner as a radiation oncology physician meets this criterion. The Petitioner, however, has not demonstrated that its employment relationship with the Beneficiary constitutes "membership" in an association or that her position required outstanding achievements, as judged by recognized national or international experts in the field.

The Petitioner also provided an email stating that the Beneficiary was "invited" to become a member of the International Lymphoma Radiation Oncology Group, but the record does not indicate that she had actually been admitted to membership in this organization at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12). Regardless, the evidence presented does not establish that the International

¹ *See generally* 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 generally id.* (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 The Petitioner does not claim to meet the awards criterion on appeal.

Lymphoma Radiation Oncology Group requires outstanding achievements of its members, as judged by recognized national or international experts in the field.

In addition, the Petitioner maintains that the Beneficiary's membership in the [redacted] [redacted] in the United Kingdom (UK), the Pediatric Radiation Oncology Society, the [redacted] [redacted] Group, the American Society of Therapeutic Radiation Oncology, the [redacted] [redacted] Medical Society, and the [redacted] meet this criterion. While the Petitioner provided general information about these organizations, it did not submit their constitution or bylaws, or other documentation showing their official membership requirements. In addition to not demonstrating that the aforementioned organizations require outstanding achievements of their members, the submitted documentation does not show that their admission to membership is judged by recognized national or international experts.

For example, regarding the Beneficiary's membership in the [redacted] the Petitioner submitted only pages from *Wikipedia* about the organization. As there are no assurances about the reliability of the content from this open, user-edited Internet site, information from *Wikipedia* will be accorded no evidentiary weight. *See Laamilem Badasa v. Michael Mukasey*, 540 F.3d 909 (8th Cir. 2008).⁴ In addition, even if we were to consider this evidence, it indicates that [redacted] membership is conferred upon "doctors who have passed the examinations for the diploma of membership of the [redacted] of the United Kingdom, which are held jointly by all of the UK [redacted]. The Petitioner has not shown that passing the required [redacted] medical examinations rises to the level of "outstanding achievements," or that the Beneficiary's admission was judged by recognized national or international experts in the field.

The Petitioner also claims that the Beneficiary's "fellowship" in the [redacted] meets this criterion. The Petitioner presented a certificate stating that the Beneficiary was "admitted a Fellow of the [redacted] [redacted]. The Petitioner, however, has not offered evidence showing that the Beneficiary's [redacted] fellowship required outstanding achievements or that her admission was judged by recognized national or international experts.

Furthermore, the Petitioner asserts that the Beneficiary's two-week fellowship with the [redacted] University [redacted] two-week [redacted] Fellowship to the University [redacted], and "Two-Year Fellowship Program in Pediatric and Adult Proton Therapy" at [redacted] satisfy this criterion. These fellowships represent temporary medical training opportunities rather than membership in associations in the field. For

⁴ See also information from https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on July 24, 2023, and copy incorporated into the record of proceeding, which indicates that *Wikipedia's* content is subject to the following general disclaimer:

WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. Wikipedia is an online open-content collaborative encyclopedia; that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate, or reliable information.... Wikipedia cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized, or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

instance, the Petitioner provided information about the [redacted] Fellowship” which states: “The goal of the program is to develop clinical expertise in the management of pediatric malignancies and technical expertise in the application of proton therapy. Fellows will be expected to complete a proton therapy related research project” Nor has the Petitioner demonstrated that the Beneficiary’s fellowships required outstanding achievements, as judged by recognized national or international experts in the field. For example, regarding her [redacted] Fellowship, the Petitioner submitted information indicating that “fellowships are open to consultants and post-[redacted] Specialist Registrar Clinical Oncologists who are members or fellows of the [redacted] in good standing, resident in the United Kingdom, and in active clinical practice at the time of the award/visit.” Additionally, with respect to the Beneficiary’s “Two-Year Fellowship Program in Pediatric and Adult Proton Therapy,” the Petitioner provided information from University [redacted] stating:

The pre-requisite for the fellowship is successful completion of an ACGME accredited residency in Radiation Oncology by the start date of the fellowship. . . . The application must include a current Curriculum Vitae and a one page personal statement articulating the candidate’s interest in the fellowship. Three letters of recommendation from clinical and/or research mentors are also required, including one from the fellow’s residency director. Exceptional international applicants who have completed a radiation oncology residency in the United Kingdom, Norway, Australia, Singapore, and Canada will be considered provided they have a valid U.S. medical license, or ECFMG certification for training outside the U.S. (requires completion of USMLE 1 and USMLE 2 exams). ECFMG certification is also required for visa sponsorship, if applicable.

The Petitioner has not demonstrated that the aforementioned criteria (such as completing an oncology residency, active clinical practice, or medical licensure) rise to the level of “outstanding” achievements. Without evidence indicating that the Beneficiary’s memberships require outstanding achievements and that admission to membership is judged by recognized national or international experts, the Petitioner has not established that she meets 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)

As evidence for this criterion, the Petitioner submitted scholarly research articles and reviews written or edited by the Beneficiary in *International Neurology, Radiology and Radiotherapy of Craniopharyngioma*, and *BMJ Clinical Review*.⁵ The Petitioner also presented an article authored by the Beneficiary, entitled [redacted], which was posted on the website of [redacted] News.⁶ The aforementioned medical articles discuss subject matter other than the Beneficiary. As this material is not “about” the

⁵ The regulations contain a separate and distinct criterion relating to “authorship of scholarly articles” in professional publications at 8 C.F.R. § 204.5(h)(3)(vi), a criterion that the Beneficiary has already satisfied.

⁶ The Petitioner has not presented evidence (such as readership statistics) showing that [redacted] News’ website is a form of major media.

Beneficiary, it does not constitute published material about her for purposes of this criterion. The language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires “published material about the alien.” See, e.g., *Negro-Plumpe v. Okin*, 2:07-CV-00820 at *1, *7 (D. Nev. Sept. 2008) (upholding a finding that articles about a show are not about the actor).

In addition, the Petitioner submitted an article about the Beneficiary in [redacted] Magazine, entitled [redacted].” The author of this article is not identified as required by this criterion and the material appears in the “Advertising Feature” section of the magazine. Marketing materials created for promoting one’s services are generally not considered sufficient to meet this criterion.⁷ Nor did the Petitioner offer comparative circulation statistics or other evidence to demonstrate that [redacted] Magazine is a professional or major trade publication or other type of major media.⁸

Furthermore, the Petitioner provided documentation indicating that the Beneficiary discussed “Breast Cancer Treatment Options” on the [redacted] News Morning Show’s health segment. The Petitioner has not shown that this televised segment was about the Beneficiary as opposed to breast cancer treatment options available to Florida women. In addition, the Petitioner has not presented evidence (such as viewership statistics) showing that the [redacted] News Morning Show is a form of major media. Without evidence that the Beneficiary has been the subject of material about her in professional or major trade publications or major media, the Petitioner has not established that she satisfies 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)

As evidence under this criterion, the Petitioner submitted the Beneficiary’s research articles and book chapters, citation evidence for her published work, and letters of support from her colleagues in the field. The Director considered this documentation, but found that it was not sufficient to demonstrate that the Beneficiary’s work constituted original contributions of major significance in the field. For the reasons discussed below, we agree with that determination.

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has a beneficiary made original contributions, but that they have been of major significance in the field.⁹ 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.

⁷ See generally 6 USCIS Policy Manual, *supra*, at F.2, Appendices, “Extraordinary Ability Petitions - First Step of Reviewing Evidence” (stating that marketing materials created for the purpose of selling a beneficiary’s products or promoting their services are not generally considered to be published material about the beneficiary).

⁸ See generally *id.* (indicating that evidence of published material in professional or major trade publications or in other major media publications should establish that the circulation (on-line or in print) is high compared to other circulation statistics).

⁹ See generally 6 USCIS Policy Manual, *supra*, at F.2, Appendices, “Extraordinary Ability Petitions - First Step of Reviewing Evidence.”

In the appeal brief, the Petitioner asserts that the Beneficiary’s “formal training and education in proton beam therapy at [redacted]” “real-life experience in both adult and pediatric proton therapy,” completion of “a dedicated pediatric and adult proton therapy fellowship,” and treatment of “more than 200 children suffering from cancer” meet this criterion. While the evidence indicates that the Beneficiary is skilled in her field, the Petitioner has not demonstrated that her education, training, and experience in proton therapy constitute original scientific contributions of major significance in the field of radiation oncology.

In addition, the Petitioner contends that the Beneficiary reviewed material for *Oncology at a Glance* and “has edited at least ten *British Medical Journal (BMJ) Clinical Review* books from 2015 to 2019 on subjects ranging from clinical oncology, hematology, pediatrics, and obstetrics and gynecology.” The Beneficiary’s manuscript reviews and editorial service, however, were considered under the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), a criterion that she has already fulfilled. Moreover, the Petitioner did not establish how performing peer review or editorial work for a journal rises to the level of an original contribution of major significance in the field. Here, the Petitioner did not show, for example, how the Beneficiary’s work significantly impacted or influenced the field in a major way beyond *Oncology at a Glance* or the *BMJ*.

The Petitioner also indicates that the Beneficiary has published articles and conference abstracts in *International Neurology*; *International Journal of Particle Therapy*; *Drugs*; *International Journal of Radiation Oncology, Biology, Physics (IJROBP)*; *Clinical Oncology*; *Basic Research and Clinical Aspects of Adamantinomatous Craniopharyngioma*; *Lung Cancer*; and *European Journal of Cancer Supplements*. The Petitioner has not demonstrated that publication of articles in well ranked journals and presentation of work at reputable medical conferences, such as *Proceedings of the American Society for Radiation Oncology 56th Annual Meeting (ASTRO)*, inevitably demonstrate 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 distinguished journal or conference automatically indicates a scientific contribution of major significance in the field. Here, the Petitioner has not established that publication in the aforementioned journals and conferences alone demonstrates a contribution of major significance in the Beneficiary’s 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.

The record includes the Beneficiary’s Google Scholar profile showing that her research articles have received 73 cumulative citations. The information from Google Scholar further indicated that the Beneficiary’s two highest cited articles, entitled ‘ [redacted] (2007) and ‘ [redacted] (2015), each received 69 and 3 citations, respectively. Her next two highest cited articles, entitled ‘ [redacted] (2016) and ‘ [redacted] (2017) received one citation each.¹⁰

¹⁰ The Petitioner did not specify how many citations for each of these individual articles were self-citations by the Beneficiary or her coauthors.

Generally, citations can serve as an indication that the field has taken interest in a beneficiary's research or written work. However, the Petitioner has not sufficiently shown that the number of citations for any of the Beneficiary's published articles is commensurate with contributions of major significance in the field. Here, the Petitioner did not articulate the significance or relevance of the citations to the Beneficiary's articles. Nor has the Petitioner shown that these citations are unusually high in the Beneficiary's field or how they compare to other articles that the field views as having been majorly significant. Without comparative statistical evidence indicating the frequency at which other articles in the Beneficiary's field are cited, for example, the Petitioner has not demonstrated that the number of citations received by her published and presented work is indicative of a contribution of major significance in the field.

Additionally, the Petitioner points to recommendation letters from experts in the field provided in support of the Beneficiary.¹¹ These references discussed the Beneficiary's advanced radiation oncology training, as well her research relating to oncology and proton therapy, but their statements do not demonstrate that her original work is of major significance in the field. As discussed below, the reference letters do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to show the nature of specific "original contributions" that the Beneficiary has made to the field that have been considered to be of major significance.

For example, Dr. M-W-W-, a professor of radiation oncology at T-J-U-, stated that the Beneficiary "pursued specialized training in proton therapy beyond the basic requirement of residency training and has developed a rare clinical skill in a highly specialized field of proton therapy." Dr. M-W-W- indicated that the Beneficiary completed a fellowship in pediatric and adult proton therapy at [redacted] "in [redacted] the first such program in the world." Dr. M-W-W- also noted that the Beneficiary has "authored original scientific research studies" published in *International Journal of Particle Therapy* and presented at *ASTRO*, but she did not explain how this work has affected the field in a substantial way or otherwise constitutes a contribution of major significance in the field. We recognize that research must add information to the pool of knowledge in some way in order to be accepted for publication, presentation, funding, or academic credit, but not every research study that broadens knowledge in a particular field constitutes a contribution of major significance in that field.

Dr. M-W-W- further mentioned the Beneficiary's editorial work for *BMJ Clinical Review* and authorship of a book chapter in [redacted]. The Petitioner, however, has not offered citation information or other evidence showing that the Beneficiary's particular book chapter constitutes an original contribution of major significance in proton therapy. Nor does the evidence support a determination that performing editorial services for *BMJ Clinical Review* rises to the level of a contribution of major significance in the field.

In addition, Dr. S-A-, the Petitioner's medical director, stated that the Beneficiary's "research has helped . . . refine and define the radiation tolerance of critical hearing organs such as the cochlea. The guidance derived from this data is critical in hearing preservation in the long-term survivors of childhood cancer patients helping improve their survivorship and quality of life." He indicated that the Beneficiary "was invited to present this work as a podium presentation at the International Pediatric

¹¹ While we discuss a sampling of the letters of support, we have reviewed and considered each one.

Radiation Oncology Cancer Society Conference at [redacted] Hospital . . . in [redacted] 2017.” Dr. S-A- further noted that the Beneficiary’s “presentation generated the expected enthusiasm and has established [the Beneficiary] as an outstanding researcher,” but he did not offer specific examples indicating that her presented findings on radiation tolerance have influenced the field of radiation oncology to the extent that they are of major significance in her field.

Furthermore, Dr. B-H-, a consultant clinical oncologist at C-C-C-, asserted that the Beneficiary has “authored several impactful research publications and oral presentations international conferences.” While Dr. B-H- listed examples of the Beneficiary’s published and presented work, he did not elaborate on how her specific research and findings have been widely utilized by other radiation oncologists or have otherwise affected proton cancer therapies at a level indicative of contributions of major significance in the field.

The record includes additional recommendation letters from Drs. R-L-R-, W-P-, and N-J-. Although these remaining letters praise the Beneficiary’s work as a radiation oncologist, they do not demonstrate how her contributions are “of major significance in the field.” Instead, the letters reference the importance of the Beneficiary’s works as indicated by their publication in professional journals and presentation at medical conferences. As discussed above, the Petitioner has not shown through the Beneficiary’s citation history or other evidence that her work, once published or presented, has been of major significance in the field. While the selection of the Beneficiary’s articles in professional journals and conferences verifies the originality of her work, it does not necessarily reflect that her research and findings are considered of major significance.

Here, the letters do not contain specific, detailed information explaining the unusual influence or high impact that the Beneficiary’s work has had in the overall field. Letters that specifically articulate how a beneficiary’s contributions are of major significance to the field and its impact on subsequent work add value.¹² 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.¹³ 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 her work constitutes original contributions of major significance in the field, the Petitioner has not established that the Beneficiary meets this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documentation that the Beneficiary meets 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. Accordingly, we reserve the final merits determination.¹⁴ Nevertheless, we advise that we have

¹² See generally *6 USCIS Policy Manual*, *supra*, at F.2, *Appendices*, “Extraordinary Ability Petitions - First Step of Reviewing Evidence.”

¹³ *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).

¹⁴ See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the

reviewed the record in the aggregate, concluding that it does not support a finding that the Beneficiary has the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification for the Beneficiary, 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 the Beneficiary’s 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 Beneficiary has garnered sustained national or international acclaim in the field, and that she 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 the Beneficiary’s 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.

decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).