



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 24512109

Date: MAY 04, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, an economist and political scientist, 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. 8 C.F.R. § 103.3.

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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

## I. LAW

Section 203(b)(1)(A) 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.

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). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. at 376.

## II. ANALYSIS

The Petitioner indicates he is and intends to continue working in the United States as an economist and political scientist.

The Petitioner did not indicate, and the record does not establish, that he has received a major, internationally recognized award pursuant to 8 C.F.R. § 204.5(h)(3). The Petitioner must therefore demonstrate his eligibility under at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Before the Director, the Petitioner claimed to have met the following six criteria:

- Lesser prizes or awards;
- Published material about him and his work;
- Original contribution of major significance;
- Authorship of scholarly articles;
- Leading or critical role; and
- Commercial successes in performing arts.

The Director found the Petitioner did not satisfy any of the regulatory criteria. On appeal, the Petitioner argues that he meets the initially claimed regulatory criteria, except for commercial successes in performing arts under 8 C.F.R. § 204.5(h)(3)(x), stating he withdraws his claim for this criterion. After reviewing the evidence in the record, we find that the Petitioner meets the requisite three criteria.<sup>1</sup>

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<sup>1</sup> While we do not discuss each piece of evidence in the record individually, we have reviewed and considered each one.

*Documentation of the individual'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 establish this criterion, a petitioner must demonstrate their receipt of awards or prizes, and that those awards or prizes were granted to acknowledge excellence in the field and are nationally or internationally recognized. The Director found that the Petitioner's receipt of the [redacted] [redacted] did not meet the criterion since the Petitioner "did not submit major trade publications or other major media conveying that the medal is nationally or internationally recognized for excellence in the field of endeavor (political science)." In the decision, the Director explained that news articles submitted suggest the medal may have been given to the Petitioner not for excellence in the field, but instead for his employment status at the [redacted]

While the Petitioner does not deny receiving the medal as a [redacted] employee, the articles and other evidence in the record do not indicate or suggest the Petitioner's employment status with the [redacted] was the reason for his receipt of the medal. Instead, the articles name some of the medal's notable recipients specifically and generally mention that some recipients are [redacted] employees.

Relevant considerations in determining whether an award was granted for excellence in the field include the following: the criteria used to grant the award, national or international significance of the award in the field, and the number of awardees taking into consideration any limitations on competitors.<sup>2</sup> We agree with the Petitioner's argument that the Kazakhstan Presidential decree establishing the medal conveys the national recognition of the medal for significant contributions in the fields of economics and political science.

The decree issued by the President of Kazakhstan states the [redacted] was established to commemorate the 20<sup>th</sup> anniversary of Kazakhstan's independence and of the Tenge, the Kazakhstan currency. While the decree does not provide for specific criteria for awarding the medal, it sets out general rules authorizing the chairman and other authorized persons of the [redacted] to award the medal on behalf of the President of Kazakhstan to citizens and foreigners "who have made a significant contribution to the functioning of the national currency" of Kazakhstan. The decree, as well as the articles, explain the significance of Kazakhstan's currency to its economy and political independence, and the importance of the award to recognize Kazakhstan citizens and foreign leaders who have made significant contributions to the development and strengthening of the sovereignty of Kazakhstan. We find that the Petitioner established the national or international recognition of the [redacted] for excellence in the fields of economics and political science, and withdraw the Director's finding to the contrary.

The Petitioner meets the preponderance of evidence standard for meeting this criterion.

The Petitioner submitted evidence for his receipt of other awards, most of which appear to have been academic awards. Given the Petitioner has met the criterion with his receipt of the [redacted] the other awards will be considered in the final merits determination.

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<sup>2</sup> See generally 6 USCIS Policy Manual F.2 (Appendices), <https://www.uscis.gov/policymanual>.

Published material about the individual 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 Director found the Petitioner did not satisfy the plain language of the criterion since the articles submitted were not about the Petitioner's work as a political scientist, and the evidence was insufficient to demonstrate the national readership at the time of the publication. The Director references an article published in Zhas Alash, [REDACTED], stating the article "is not about [the Petitioner's] work as a political scientist." The Director further explains that the evidence submitted about the publication, Zhas Alash, does not "convey its national readership in 1996" and does not demonstrate it is a professional or major trade publication or other major media.

The Petitioner argues the article describes the Petitioner's educational successes, including earning a presidential scholarship and degrees in economics and international economics. We agree with the Petitioner that the record sufficiently demonstrates the article is about the Petitioner and relates to his work in political science and economics.

The article is an interview with the Petitioner focusing on his having been part of a new academic scholarship program initiated by Kazakhstan's President after the country's independence from U.S.S.R. The program selects students to study abroad and return to Kazakhstan with specialized knowledge to help the country's development. The article explains the Petitioner received a master's degree in international economics and had since returned to Kazakhstan having been employed as an economics specialist with the [REDACTED]

[REDACTED] The article provides the Petitioner's perspective on the importance of having specialists with Kazakhstan's new social structure stating, "Market relations, privatization, self-financing, private ownership rather than state ownership is necessary to understand that the growth of private property is not just another campaign, as in the former socialist society, but a necessity of real life, a reality of development." The article further describes the Petitioner's perspective on other economic issues of Kazakhstan as a newly developed country. We find the article is about the Petitioner and relates to his work in his fields of political science and economics.

The Petitioner also argues the evidence submitted demonstrates the publication, Zhas Alash, has been in existence for over 90 years becoming "a major republic publication." The record includes a Wikipedia summary of Zhas Alash explaining the history of the publication as a socio-political newspaper in Kazakhstan which is published twice a week. The summary explains Zhas Alash was founded in 1921 in the Soviet Union continuing post-Soviet era as an independent socio-political newspaper. In 2000, the paper received an award and had a circulation of 50,000. The evidence demonstrates Zhas Alash being a major trade or professional publication at the time of the article was published in 1996.

For the reasons discussed, the Petitioner has submitted evidence demonstrating that he meets this criterion. We therefore withdraw the Director's finding.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi).

The Petitioner contends he qualifies for this criterion based on his reports published in conference materials; his book, [REDACTED]; and articles he wrote for magazines, journals, and other publications. The Director found that he did not provide evidence that the publications or sources are professional or major trade publications, or other major media. Also, the Director found that the reports and articles "do not appear to be scholarly or in the field of political science." On appeal, the Petitioner states his previously submitted evidence demonstrates his eligibility for this criterion.

This criterion contains multiple evidentiary elements. The first element requires that the Petitioner is an author of scholarly articles in his field. We consider these articles within two distinct areas. The first area is within the academic arena in which a scholarly article reports on original research, experimentation, or philosophical discourse. It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. The second area lies outside of the academic arena in which a scholarly article should be written for learned persons in that field. "Learned" is defined as "having or demonstrating profound knowledge or scholarship." Learned persons include all persons having profound knowledge of a field. See generally 6 USCIS Policy Manual, *supra*, at F.2 (Appendices).

The second element this criterion requires is that the scholarly articles appear in a professional publication, a major trade publication, or in a form of major media. Regarding the medium in which the articles appear, the Petitioner should establish that the publication's circulation statistics are high relative to similar publications and should also establish the publication's intended audience. *Id.* The Petitioner must submit evidence satisfying each of these elements to meet the plain language requirements of this criterion.

Among the multiple reports and articles submitted by the Petitioner, he submitted a report entitled, [REDACTED], which was presented at a conference, II International Conference, organized by the Republican State Enterprise Institute for Economic Research of the Ministry of Economy and Budget Planning of the Republic of Kazakhstan. The record shows the conference published a collection of the presenters' reports, including the Petitioner's report. The conference material includes an introductory summary explaining the conference's purpose was to analyze the "international practice of infrastructure development by the private sector"; the conference attendees included scientists, specialists, and employees in the banking and economic industries; and an explanation that the conference material is intended for "economists and professionals interested in the development of public and private partnerships for the creation of infrastructure facilities in Kazakhstan."

The Petitioner's report and the summary of the conference material indicates the published material was intended for learned persons in the Petitioner's fields of economics and political science. Also, the collection of conference material qualifies as professional trade material since it was provided to scientists, specialists, and employees focused on the Petitioner's fields of economics and political science.

Accordingly, the record demonstrates the Petitioner meets the basic parameters applicable to evidence under this criterion. We withdraw the Director's finding to the contrary.

With eligibility under this additional criterion, the Petitioner satisfied part one of this two-step adjudicative process. As the Petitioner has met the initial evidence requirements of at least three criteria, it is unnecessary to discuss any additional eligibility claims relating to the regulatory provisions at 8 C.F.R. § 204.5(h)(3)(i)-(x).

### III. CONCLUSION

For the reasons discussed above, we will withdraw the Director's decision and remand the matter for further review and entry of a new decision. Because the Petitioner has established his qualifications under criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii), and (vi), on remand, the Director should conduct a final merits review of the evidence in the record. The new decision should include an analysis of the totality of the evidence evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, his status as one of the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation. 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.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.