



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

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

In Re: 28425175

Date: OCT. 20, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a physician with specialized training in orthopedics and traumatology, seeks classification as an individual of extraordinary ability in the sciences. 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 record did not establish the Petitioner met the initial evidence requirements for this classification, either through his receipt of a major, internationally recognized award, or, in the alternative, by submitting evidence that satisfies at least three of the ten 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 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 a petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that a petitioner 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).

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 is a medical doctor who completed a post-graduate specialization and residency in orthopedics and traumatology in 2016. His professional experience includes both clinical practice as a hospital-based consulting physician in this specialty, and academic experience as a lecturer and associate professor. At the time of filing, he was also enrolled in a joint masters/Ph.D. program in molecular oncology at a Turkish university.

Because the Petitioner has not indicated or established his receipt of 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 claimed eligibility under five of the ten criteria.

In denying the petition, the Director acknowledged that the Petitioner met the criteria relating to judging the work of others in his field and authorship of scholarly articles at 8 C.F.R § 204.5(h)(3)(iv) and (vi), respectively. The record supports this determination based on evidence that the Petitioner has provided his services as a peer reviewer for several scientific journals in the medical field, and evidence that he has co-authored and published scholarly articles in professional publications such as medical journals and conference proceedings.

The Director concluded that the Petitioner did not submit sufficient evidence to support his claim that he can satisfy the evidentiary criteria relating to memberships in associations in his field, published material about him and his work, and original contributions of major significance. *See* 8 C.F.R. § 204.5(h)(3)(ii), (iii) and (v). On appeal, the Petitioner maintains that he meets all three of these criteria and is otherwise eligible for the classification sought.

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 individual'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 has consistently claimed that he is a member of several associations in his field and that such memberships satisfy the plain language of this criterion. These memberships include:¹

- Turkish Educational Council of Orthopedics and Traumatology (TOPEK)
- Turkish Orthopedics and Traumatology Association (TOTBID)
- TOTBID - [redacted] Branch
- Medical Malpractice Association
- Turkish Medical Association - [redacted]

With respect to his membership in TOPEK, the Petitioner provided a certificate indicating that he became a member of the association in October 2021 after completing the “TOTBID-TOPEK Board Examination” in September 2016 and June 2021. The record also contains a document titled “TOTEK Directive” which describes TOTEK as a “sub-working group of TOTBID,” which has its own council assembly, board of directors and working groups. This directive sets forth the structure of the TOTEK council assembly and board, the duties they perform, and the minimum qualifications for positions on these governing bodies but does not expressly state the general requirements or process for admitting regular members to TOTEK.

Section IV, Articles 13 and 14 of the TOTEK Directive discuss the TOTEK Certification Examination, noting that the exam is given in two stages, and those that successfully complete the examination receive the TOTEK certificate. While this directive indicates that candidates need to provide certain information to be admitted to the certificate exam, it does not specify what other information is collected and considered, nor does it indicate that receipt of the TOTEK certificate alone conveys membership. Even if we were to conclude that every candidate who passes the examination is admitted as a member of TOTEK, the record provides insufficient support for the Petitioner’s claim that passing a standard examination in one’s medical specialty is an “outstanding achievement” in and of itself. It is unclear what, if any, other factors are considered as a condition of membership and whether a candidate’s achievements must otherwise be judged as “outstanding” by recognized national or international experts in the field.

The Petitioner also provided evidence of his membership in TOTBID along with this association’s bylaws, which directly address its membership requirements and procedures. The bylaws indicate that principal members are “those who adopt the subject and purpose of the association and provide material and moral support to its activities[;] those who want to be present; orthopedic and traumatology specialists with legal capacity to act . . .” The bylaws state that candidates must submit a written application and are accepted “with the proposal of the member and the decision of the board of directors.” The Petitioner emphasized that, based on these requirements, “only an expert working in the field of Orthopedics and Traumatology” can successfully apply, and, given that applicants must have a reference and be endorsed by the board of directors, “it is evident that TOTBID requires outstanding achievements from their members.”

¹ The Petitioner initially claimed eligibility under this criterion based on his membership in the [redacted] Health Workers Association and the [redacted] Sport Club but did not pursue this claim in response to the Director’s RFE. Nevertheless, we note the record does not contain evidence of the requirements for membership in these associations and therefore the Petitioner did not establish that his membership satisfies the plain language of this criterion.

The record does not provide sufficient support for the Petitioner's claim that TOTBID requires outstanding achievements, as judged by recognized experts in the field, as an essential condition for membership. Although the submitted evidence reflects that TOTBID membership applications are ultimately reviewed by the association's board of directors, it does not indicate what specific criteria the board considers, what, if any, achievements are required, and whether such achievements must be judged as outstanding in order for a favorable determination to be made on a membership application.

The Petitioner also documented his membership in the [redacted] branch of TOTBID and provided a copy of the member registration form for this branch listing the documentary requirements for registration. Prospective branch members must document that they have worked in this orthopedic specialization for at least two years, participated in at least two scientific meetings in the field of [redacted] published two journal articles in this field (or had two manuscripts accepted by journals), and provide references from two existing branch members. The record reflects that membership in this TOTBID branch has additional requirements beyond those for membership in TOTBID, and that such requirements ensure that accepted members are active in the [redacted] [redacted] specialty and have published or presented some research in the field. However, the evidence does not document the association's process for reviewing membership applications or establish that only prospective members who are judged by nationally or internationally recognized experts as having outstanding achievements in the field are admitted. We cannot conclude based on the evidence submitted that participating in two scientific meetings or publishing two articles rises to the level of "outstanding achievements" in the field.

The record includes evidence of the Petitioner's membership in the Turkish Medical Malpractice Association, along with a copy of the association's charter, with an English translation. The association is described as "an association of doctors and other allied health professionals within the medical and pharmacy profession." The association's charter describes the "Right to Become a Member and Membership Procedures" at Article 5; however, the English translation of this portion of the document is truncated at the bottom of the page, with some information missing. The missing information appears to be the section discussing the conditions for membership, as the following page begins with the statement: "Every natural and legal person who meets the conditions has the right to become a member of the association. No reference is required, individual application is sufficient." Based on the submitted documentation, the Petitioner has not demonstrated that the Turkish Medical Malpractice Association requires outstanding achievements as a condition of membership.

Finally, the Petitioner provided evidence of his membership in the [redacted] of the Union of Turkish Physicians which is part of the Turkish Medical Association, along with the laws of the association. The Petitioner emphasized that members must be medical school graduates authorized to practice medicine within the borders of Turkey, and notes that the membership registration form requires details about the applicant such as medical school graduation date, specialist degree details, and details about their employment. However, an association that admits members based solely on factors such as a minimum level of education or employment in a specific occupation is not considered to be an association that admits members based on outstanding achievements. *See generally*, 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policy-manual> (discussing evaluation of evidence submitted in support of the criterion at 8 C.F.R. § 204.5(h)(3)(ii)).

Without evidence indicating that the associations that granted him membership require outstanding achievements and that admission to membership is judged by recognized national or international experts, the Petitioner has not established that he meets this criterion.

Published material about the individual in professional or major trade publications or other major media, relating to the individual'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 support of this criterion, the Petitioner provided evidence that he was a guest on programs aired on the Turkish television channels STAR TV and CNN Turk TV and that he was interviewed for articles published online by the Turkish newspapers and on the website of CNN Turk TV.

The Director acknowledged that the evidence reflects that the Petitioner has been interviewed about bone pain, bone tumors and pathological fractures, and that he provided information about carpal tunnel syndrome in a short, televised segment. The Director determined, however, that the subject of the articles and televised segments was to inform readers and viewers about these specific medical issues, not to discuss the Petitioner and his work in the field. On appeal, the Petitioner maintains that he submitted "several published materials" that are about him and relate to his work in orthopedics, traumatology and cancer research. However, he does not address the Director's specific reasons for concluding that he did not meet this criterion.

We agree with the Director's conclusion that the submitted published materials and televised segments are about the symptoms, origin of, and treatment for conditions such as bone cancer, carpal tunnel syndrome and pathological bone fractures, as opposed to published materials about the Petitioner. While these informative articles and interviews identify the Petitioner by name, identify his medical specialty, and quote him, do not discuss him, his background, his clinical practice or research, or otherwise address his work in the field. Any materials a petitioner submits must demonstrate the value of their work and contributions. While published materials submitted under this criterion need not be solely about the individual and their work, any material covering a broader topic should include a substantial discussion of the person's work in the field and mention the petitioner in relation to the work. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1). The fact that the Petitioner was invited to speak as an expert on topics related to his medical specialty is noted and may be relevant in a final merits determination, where we consider whether the individual has sustained acclaim and has been recognized for their achievements. However, the published materials provided do not satisfy the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

Because the Petitioner has not submitted evidence that he has been the subject of published material about him and his work in his field, he did not establish that he meets this criterion.

Evidence of the individual'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 his published research articles and book chapter, citation evidence for his published work, evidence of his participation in conferences

(including evidence that he received a [redacted] award in 2016), evidence of university classes he has taught, training certificates, and letters of support from experts in the field. The Director considered this documentation but found that it was not sufficient to demonstrate that the Petitioner has made original contributions of major significance in this field. On appeal, the Petitioner maintains that the previously submitted evidence was sufficient to establish that he satisfies this criterion. For the reasons discussed below, we agree with the Director's 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 he made original contributions, but that they have been of major significance in the field. For example, published research that has provoked widespread commentary on its importance from others working in the field, and documentation that it has been highly cited relative to others' work in the field may be probative of the person's contributions to the field of endeavor.

The Petitioner references his completion of training and certificate programs in his field and asserts that "all these certificates have made original scientific contributions of major significance to his field of expertise." Specifically, the Petitioner notes that "training certificates can provide researchers with valuable skills and knowledge that can contribute to their scientific work and the broader field," by improving their research methodology, introducing new techniques and technologies, expanding their knowledge basis, and providing networking and career advancement opportunities. While we do not dispute the value of ongoing professional training and development, the focus of this criterion is on the significance of an individual's existing original contributions and evidence that such contributions have already demonstrably influenced or impacted the field in a manner indicative of their major significance. Completion of specialized training with the goal of expanding one's knowledge and advancing one's career is not an original contribution in of itself.

Regarding his teaching activities as a lecturer and associate professor, the Petitioner asserts that lecturers "provide a contribution to the academic field in which they work as they educate young people that are modern, inquisitive and equipped with all the qualifications." He provides evidence that he has taught courses intended for second year undergraduate students in physiotherapy and rehabilitation and fifth year medical students, noting that he "contributes to his academic field by raising medical students." While the evidence shows the Petitioner has contributed to his field by teaching advanced academic content and clinical skills to upper level medical students, the evidence does not establish how his teaching activities represent an original contribution of major significance in his field, or how such activities had an impact that reached beyond the students who enrolled in his courses.

The Petitioner also emphasizes that he has published journal articles and an academic book chapter and delivered poster and paper presentations at conferences in his field, noting that such activities "are crucial to the advancement of research in any field." We agree that these activities provide researchers with platforms to disseminate their original research findings to a wider audience and potentially encourage further research that advances the broader field. However, the Petitioner has not demonstrated that publication of his articles in notable journals or textbooks or presentation of work at reputable medical conferences necessarily demonstrates that the field has recognized the major significance of his original contributions. For example, the Petitioner stated that "writing an academic book chapter is a significant undertaking that can have a major impact on a field of study," but he did not articulate how the specific book chapter that he authored, which appeared in a 2016 academic

textbook titled [redacted] is a significant contribution of major significance in his field. Publications and presentations satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(vi), but these activities alone are not sufficient to establish a researcher's eligibility under 8 C.F.R. § 204.5(h)(3)(v); not every article published in a distinguished journal or conference automatically indicates a scientific contribution of major significance in the field.

The record includes the Petitioner's Google Scholar profile showing that his published research articles had received 31 cumulative citations as of January 2023. The information from Google Scholar further indicated that the Petitioner's three highest cited articles, published in 2020, 2018 and 2021, received 7, 6, and 5 citations, respectively, and that he had eight additional publications that received at least one citation.² Generally, citations can serve as an indication that the field has taken interest in an individual's research or written work. However, the Petitioner has not sufficiently shown that the number of citations for any of his published work is commensurate with contributions of major significance in the field. He did not articulate the significance or relevance of the citations to his articles, nor has he shown that the number of citations is unusually high in his 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 Petitioner's field are cited, for example, he has not demonstrated that the number of citations received by his published and presented work is indicative of a contribution of major significance in the field.

We acknowledge the Petitioner's submission of evidence that his paper titled '[redacted]
[redacted]', received the [redacted]
[redacted] Award at the 26th National Turkish Orthopedics and Traumatology Congress. The award undoubtedly recognized the quality and originality of the research, but the record does not contain sufficient evidence to support the Petitioner's claim that it recognizes the work as an original contribution of major significance in the field. This awarded paper does not appear on the Petitioner's Google Scholar profile and the record does not otherwise show that it has been highly cited or provoked widespread commentary among others performing research in the field. Further, the Petitioner does not specifically articulate how the research that earned him a [redacted] award has been recognized as a contribution of major significance in the field. Rather he broadly states that receiving such an award "can have a profound impact on [a researcher's] personal and professional development as well as on their field as a whole."

Additionally, the Petitioner points to his submission of several recommendation letters from experts in the field.³ These experts discussed the Petitioner's specialized training and research in the field of orthopedics, oncology, and traumatology, but their statements do not demonstrate that his 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 Petitioner has made to the field that have been of major significance.

For example, Dr. G-M-, a medical school professor who served as the Petitioner's academic supervisor for his specialization degree, indicates that he worked with the Petitioner on four different research

² The Petitioner did not specify how many citations for each of these individual articles were self-citations.

³ While we discuss a sampling of the letters of support, we have reviewed and considered each one.

projects which were “published in high-quality academic journals and presented at the prestigious congress.” Dr. G-M- briefly describes these projects but does not explain how the Petitioner’s published work has impacted the field in a substantial way or otherwise constitutes a contribution of major significance. We recognize that research must add information to the pool of knowledge in some way to be accepted for publication, presentation, or funding, but not every research study that broadens knowledge in a particular field constitutes a contribution of major significance in that field. Dr. G-M- further praises the Petitioner’s research skills, states that he continues to work on “a very important project on orthopedics and traumatology,” and opines that his work is “excellent, novel and unsurpassed,” in part due to its “direct practical applications to the health of many.” However, his letter does not elaborate on the Petitioner’s “very important project” and its “direct practical applications” and the significance of these contributions to their shared field of endeavor.

Dr. E-U-, who serves as the director of a molecular cancer research center at a Turkish university, states that the Petitioner has made significant contributions to the field of cancer research. Specifically, he notes that the Petitioner’s 2018 article published in *Hand and Microsurgery Journal* in 2018 represents “a very important contribution in the field” because he found that most hand tumors are benign and should not be treated prior to receiving biopsy results. Dr. E-U- states that this article “has been cited by many researchers in the field,” and generally asserts, without offering specifics, that the Petitioner has authored “many other significant research articles and has conducted outstanding research with extraordinary findings, contributing to the field in a variety of ways.” The Petitioner’s Google Scholar profile indicates that the referenced 2018 article had been cited six times as of 2023, but this evidence alone does not provide sufficient support for Dr. E-U’s statement that it has been cited at a level indicative of a contribution of major significance in the field.

In addition, Dr. K-O-, head of orthopedics and traumatology surgical sciences at a Turkish medical school, discusses the breadth of the Petitioner’s academic and clinical activities, noting his receipt of a award, his publication of a book chapter, his participation in national and international conferences and workshops, his teaching role as an associate professor, and their co-authorship of two articles published in 2022. With respect to these articles, he states that he believes their studies “will be beneficial for the field of orthopedics and traumatology” but does not further elaborate. While Dr. K-O- further states that the Petitioner “has made and continues to make significant . . . contributions” to the field, he did not offer specific examples indicating that his published or presented work or teaching activities have provoked widespread commentary from others working in the field or have otherwise been impactful to the extent that they are of major significance in his field.

The record includes additional recommendation letters from Drs. P-R-, J-J- and S-S-. Although these letters praise the Petitioner’s work and expertise in the orthopedics and traumatology medical specialty, they do not demonstrate how his original contributions are “of major significance in the field.” Instead, the letters reference the importance of the Petitioner’s works as indicated by their publication in professional journals and presentation at medical conferences. While the selection of the Petitioner’s articles for publication in professional journals and conferences verifies the originality of his work, it does not necessarily reflect that his research and findings are considered of major significance. As discussed above, the Petitioner has not shown through his citation history or other relevant evidence that his work, once published or presented, has been highly cited or provoked widespread commentary.

For example, Dr. J-J- highlights the Petitioner’s 2021 article [redacted] as “one of the most comprehensive and important research to prove that the ilium is the most common metastatic bone region of the pelvis.” However, the record reflects that the referenced paper had only one citation as of 2023 and contains no other evidence that would corroborate Dr. J-J-’s statement regarding the importance or influence of this paper in their shared field. Dr. P-R- similarly highlights two of the Petitioner’s 2021 publications as representing important and “very impactful research contributions,” but the referenced articles had received only one or two citations and he did not otherwise elaborate on how the Petitioner’s published work represented original contributions of major significance.

Overall, the submitted 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. Detailed letters from experts in the field explaining the nature and significance of the person’s contribution may provide valuable context for evaluating a claimed original contribution of major significance. However, such letters are more persuasive when they specifically describe the person’s contribution and its significance, and when the record contains documentation corroborating the claimed significance. See *6 USCIS Policy Manual, supra*, at F.2(B)(1). While some of the submitted letters are lengthy, they do not specifically describe the significance of the Petitioner’s original contributions and are not sufficiently corroborated by other evidence in the record.

Without sufficient information and evidence demonstrating that he has made original contributions of major significance in the field, the Petitioner has not established he meets this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documentation that he meets at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). 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.⁴ Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has 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,”). 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, although the Petitioner has achieved professional success as a clinical physician, professor, and academic researcher, the record

⁴ See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the 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).

does not demonstrate that he has garnered sustained national or international acclaim in the field, and that 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 for classification 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.