



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

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

In Re: 31677520

Date: AUG. 28, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a cybersecurity professional in the field of business, 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 Texas Service Center denied the petition, concluding that the record did not establish the Petitioner met the initial evidence requirements for the classification by establishing his receipt of a major, internationally recognized award or by meeting 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 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 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; who seek to enter the United States to continue work in the area of extraordinary ability; and whose 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 the initial evidence requirements through either a one-time achievement or meeting three lesser criteria, 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 computer and network professional working in the cybersecurity and business fields. Because the Petitioner has not indicated or shown that he 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). The Petitioner claims to have satisfied six of these criteria, summarized below:

- (ii), membership in associations that require outstanding achievements
- (iii), published material about the individual in professional or major media
- (v), original contributions of major significance
- (vi), authorship of scholarly articles
- (vii), display of his work in the field at artistic exhibitions or showcases
- (viii), evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation

The Director concluded the Petitioner met one criterion pertaining to the display of his work in the field at artistic exhibitions or showcases. After reviewing all the evidence in the record, we agree with the Director that the Petitioner has satisfied the display criteria, but he also satisfies two additional categories of evidence of published material about the individual in professional or major media and authorship of scholarly articles. Because the Petitioner has shown that he satisfies at least three criteria, we will remand the matter to the Director to evaluate the totality of the evidence in the context of a final merits determination to determine whether the Petitioner has demonstrated 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.

*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).*

The plain language of this criterion requires evidence (1) of published material, (2) that the published material contains the title, date, and author of the material, and any necessary translation, (3) that the published material is about the Petitioner relating to the Petitioner's work in the field, and (4) that the

published material qualifies as professional or major trade publications or other major media. The petitioner's evidence must satisfy every one of these elements to meet the plain language requirements of this criterion.

Evidence of published material in major media publications about the Petitioner should establish that the circulation (online or in print) or viewership is high compared to other statistics and identify the intended audience. Further, for purposes of this criterion, while published material need not be primarily or only about a petitioner to qualify, it cannot be solely about their employer or another organization with which they are associated. *See generally 6 USCIS Policy Manual at F.2.*

The record includes copies of several articles by media which discuss or mention the Petitioner and his work. The Director noted some issues with certain articles including incomplete translations and inconsistent information, but the Petitioner subsequently provided a complete and full translation of each article and explanations to overcome the Director's concerns. On appeal, he specifically discusses several articles where he was interviewed regarding his work in cybersecurity and business, and published in media outlets such as *Komsomolskaya Pravda*, *Argumenty Nedeli*, *Forbes Kazakhstan*, *Esquire Kazakhstan*, *Cnews* and *Tech Times*. The Petitioner also provided information regarding the circulation of each publication and how some publications achieved high publication rates. The evidence of record meets the plain language of this criterion, and we will withdraw the Director's conclusion on this specific matter.

*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 Director acknowledged that the record contains printouts of articles attributed to the Petitioner, posted online by differing web portals, along with Similarweb data regarding the web portals. However, the Director determined that the record does not establish how the articles are scholarly in nature, which require such aspects as research and work cited. Additionally, the Director determined that none of the publication sites are a major trade publication. On appeal, the Petitioner objects that the Director improperly imposed the criteria for scholarly articles in the academic arena rather than articles written for learned persons and contends that the publications qualify as major trade publications or other major media.

The Petitioner correctly asserts that the non-academic articles authored by the Petitioner in the record do not implicate the criteria for academic articles described in the USCIS Policy Manual, including "footnotes, endnotes, or a bibliography." *See 6 USCIS Policy Manual F.2(B)(1)*, <https://www.uscis.gov/policy-manual>. Instead, the criterion is that the articles in question "should be written for learned persons in that field," including "all persons having profound knowledge of a field." *See id.*

For example, the Petitioner's article entitled,   is intended for learned persons in the Petitioner's fields of business and technology. Also, the publication qualifies as a professional or major trade publication since it is provided to experts, including top managers, business gurus, entrepreneurs, executives, and investors. The same was found for the article written by the Petitioner that were published in *Habr.com* and *Kommersant*. The record establishes the content of the articles written by the Petitioner were written for learned persons in the field, rather than laypersons in other fields, and information regarding the media indicate that more

than one of those publishers are highly regarded among learned persons in the field. Therefore, the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(vi).

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)(iii), (vi), and (vii), on remand, the Director should conduct a final merits review of the evidence of record.

The Petitioner seeks a highly restrictive visa classification, intended for the handful of individuals at the top of their respective fields. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). As contemplated by Congress, the Petitioner must demonstrate the required sustained national or international acclaim, consistent with a "career of acclaimed work in the field." H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act.

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. We express no opinion regarding the ultimate resolution of this case on remand.

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