



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

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

In Re: 29963016

Date: MAR. 04, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a mechanical engineer and researcher, seeks classification as an individual of extraordinary ability. 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 had satisfied at least three of ten initial evidentiary criteria, as required. 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

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

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 may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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 mechanical engineer whose research and work has focused on application of the finite element method (FEM), an engineering computational tool. He intends to continue his work in the United States.

A. Evidentiary Criteria

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 Director determined that the Petitioner did not meet claimed criteria at 8 C.F.R. § 204.5(h)(3)(iv), (v), (vi), or (viii). The Petitioner asserts on appeal that he meets these four criteria for his participation as a judge of the work of others in his field, for his original contributions of major significance in the field, for his authorship of scholarly articles, and for his performance in a critical role for a reputable organization. He submits documentation previously included in the record. Upon review, we conclude that the Petitioner meets the criteria at 8 C.F.R. § 204.5(h)(3)(iv), (vi), and (viii).

Evidence of the individual's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv).

The Director's decision references, in part, a letter from a professor "that claims that an invitation was extended and accepted" for the Petitioner's participation on a conference panel. While the Director claims that the letter does not have probative value because it does not establish that the Petitioner actually performed in a judging capacity, review of the letter shows that it affirms the Petitioner's participation and even comments on the quality of his review. The letter also explains in detail why the Petitioner's research prompted the professor to invite him to join the panel. The letter is supported by material about the conference, including a brochure depicting the professor as a committee member and coordinator. We conclude that the Petitioner has satisfied this criterion.

Evidence of the individual'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).

Although the Director's decision acknowledges the Petitioner's submission of several articles to which he contributed, the Director states that "no clear evidence was submitted with the articles establishing that the publications are considered professional or major trade publications or other major media." Contrarily, documentation in the record—including letters from experts in the field whose credibility

is established by detailed descriptions of their work and standing within their field—speaks to the professionalism of a trade publication in which the Petitioner’s research has appeared and the reputability of the conferences at which he has presented his research. We conclude that the Petitioner has satisfied this criterion.

Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Director’s decision acknowledges letters describing the Petitioner’s work during his employment at the headquarters of a developer of industrial pipe supports. While the Director recognizes that these letters describe the Petitioner’s “past works and accomplishments,” the Director concludes that the letters do not contain “detailed and probative information” specifically addressing how the Petitioner’s role was leading or critical for the organization.

Upon review, we conclude that the record demonstrates that the Petitioner performed in a leading role for the organization. A letter from a product development supervisor at the company who worked with the Petitioner provides a detailed account of the nature of the Petitioner’s work and describes his role as leading the development of a new product line for cryogenic pipe supports. The author states that the Petitioner’s knowledge and innovative approach contributed to the successful and expedient transition of pipe support manufacturing from the company’s sister facility in China to North America.

The author also describes the Petitioner’s involvement in creating automation tools that were used to more efficiently manufacture products for new projects. The credibility of this letter and another letter from a former colleague are supported by documentation about the company, which is a multimillion-dollar leading specialist in industrial pipe support systems that supplies products to power and petrochemical facilities worldwide. We conclude that the Petitioner has satisfied this criterion.

In our review of the entirety of the record to evaluate whether the Petitioner has demonstrated that he is among those at the top of his field of endeavor, we turn to his assertion that he meets the following 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).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. *See generally* <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (advising, in part, that although published work may be “original,” this fact alone is not sufficient to establish that the work is of major significance). 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.

On appeal, the Petitioner references numerous letters of support in the record, stating (quoted as written), “The letters in the record repeatedly describe the Petitioner’s research as unique and extraordinary and has benefited multinational U.S. companies in major industries.” Indeed, several

letters from the Petitioner's former instructors and colleagues convey the high regard in which they hold both the Petitioner's work and the Petitioner's himself as a thorough, knowledgeable, and creative individual. The letters convey the potential importance of the Petitioner's research to the agricultural, medical supply, and automotive industries. For example, discussing the Petitioner's research on the wear of plowshares during tillage of complex soils, a professor on his dissertation committee writes the following (quoted as written):

[The Petitioner's] research objective was to determine the cause for premature wear and failure of the tilling tool when minimal information was available for the performance of the plowshare's material. At the beginning of this work there was very little in the literature on solution methodologies combined analysis and empirical data on material removal in this slow process relevant to agriculture. [The Petitioner's] approach to solving was unique and forward looking by combining information from the extensive literature on machining and the use of numerical techniques to solve the resulting complex boundary value problems resulting from the modeling of the soil and plowshare interaction. He was able to solve this multi-dimensional problem and provided a solution methodology using the finite element method that allows the time to replace the worn tool for developers of plows. The results of [the Petitioner's] impact in the field of material removal and failure that will aid it the development of better agricultural tools and practices as the expanding need for food increases in importance for developing countries.

Another professor who worked with the Petitioner states,

The research methodology that [the Petitioner] used can be used to optimize the tool material and the tool geometry. . . . The research methodology can potentially be used in designing new tools with increased wear-life that result in economic benefits that are particularly critical in developing countries.

A third professor who worked with the Petitioner writes,

[The Petitioner] carried out a numerical study of abrasive wear in tillage tools due to soil-tool interaction. He adopted a fundamental approach of simulating the interaction of a single sand particle with a tool, and developed a better understanding of the mechanism by which the sand particle "scratches" on the surface of the tool. His work led to fundamental insights into the mechanics of this scratching process. . . . Such fundamental understanding can be utilized to better design tools to minimize abrasive wear.

Another professor writes,

The work done by [the Petitioner] has reduced the field and the experimental testing to identify the soil, the tool material properties, and the environmental properties required to study their effects on the tool wear rate. His work has led to the proper utilization of the available data and the natural resources to reduce the impact of the tool wear has on the farming industry.

These and other letters of record speak to the originality of the Petitioner's research and the potential positive impacts of his methodologies on various industrial and economic sectors. However, while some letters include language that alludes to the impact of the Petitioner's research and methodologies, they do not provide examples of the depth or breadth of that impact. Neither the letters nor other evidence within the record shows how the Petitioner's work has been widely implemented or has otherwise impacted the field of mechanical engineering or fields directly related to advancements in engineering methodologies.

And although the fact that the Petitioner's work has been published, cited, and presented at conferences may support the possibility that awareness of the Petitioner's work has grown or will grow, the dissemination of the Petitioner's work is not, in itself, evidence of its impact. While experts in the field may recognize the potential significance of the Petitioner's research within the field, the plain language of the criterion requires evidence of original contributions of major significance in the field. In evaluating the evidence, eligibility is to be determined not by the quantity of evidence alone but by its quality. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). Absent the submission of sufficient contemporaneous probative evidence to support the Petitioner's assertions, he has not established the significance of his research here.

We have also considered the evidence related to the Petitioner's work for the company specializing in pipe support design and production. As noted previously, the letter from the product development supervisor credits the Petitioner with the successful movement of the design and manufacturing of cryogenic pipe supports from a facility in China to North America. While this and a letter from another colleague highlight the importance and value of the Petitioner's job performance during his employment, they do not describe how his contributions as an employee led to impacts beyond their businesses. The letters' authors repeatedly refer to the Petitioner's original and innovative approaches, but they do not describe those approaches or elaborate on any specific resulting outcomes. The record does not contain sufficient evidence to demonstrate the Petitioner's original contributions of major significance in the field. This criterion has not been met.

B. Final Merits Determination

As the Petitioner submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, sustained national or international acclaim and that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *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.

The record demonstrates that the Petitioner is a talented mechanical engineer; he has applied his skills to research that holds the potential to improve the wear resistance for blade machinery and to the successful overseas transition of pipe support design and manufacturing for a multimillion-dollar organization. However, while the Petitioner has met the minimum requirement of demonstrating extraordinary ability by meeting three of the criteria at 8 C.F.R. § 204.5(h)(3), the record does not contain evidence sufficient to show that he has risen to the top of his field and has sustained national

or international acclaim in that field. We note that the weight given to evidence depends on the extent to which such evidence demonstrates, reflects, or is consistent with the sustained national or international acclaim enjoyed by those at the very top of their field of endeavor. A lesser showing would be inconsistent with the regulatory definition of “extraordinary ability” as “a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor.” *See* 8 C.F.R. § 204.5(h)(3).

For example, the record shows that the Petitioner has participated as a judge on a single conference panel. While the coordinator of the conference speaks highly of the Petitioner’s work on the panel, the record does not include documentation demonstrating that the conference was of such notability as to warrant the participation of an individual of national or international acclaim in his field. In addition, it might be reasonable to expect that an engineer at the top of his field would have served on more than one panel or would have performed in a leading role on a panel; the record does not demonstrate that the Petitioner has done so or has had comparable experiences.

As another example, although the record shows that the Petitioner has authored a research paper that appeared in a major trade publication and has presented his research at several conferences, the record does not include evidence showing that his work has been widely applied in the field of mechanical engineering or has significantly impacted some element of that field. We incorporate our previous analysis of the criterion at 8 C.F.R. § 204.5(h)(3)(v), which the Petitioner did not satisfy.

Further, the record shows that the Petitioner performed in a leading role during the overseas transfer of a reputable company’s product line; while this may have been an important undertaking for the company, it would not be unreasonable to expect that a mechanical engineer at the top of his field would have served in more than one leading or critical role for one or more distinguished establishments or organizations. In turn, one might expect an individual to have received national or international acclaim for having served in those roles or, perhaps, in a single role for an effort that received national or international media coverage for its prominence. Here, the record does not include evidence showing that the Petitioner has been recognized in a manner that would demonstrate his national or international acclaim.

On review, the balance of the record demonstrates the Petitioner’s proficiency and promise in the field of mechanical engineering. However, the record does not contain evidence sufficient to demonstrate that he has received national or international acclaim for his research or other work within the field. He has not demonstrated through “extensive documentation” that his efforts have brought him the requisite sustained acclaim at a national or international level, such that we could conclude that he has 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. As such, the record does not indicate he currently has a degree of recognition for his achievements consistent with the sustained acclaim that the statute demands. Moreover, the record does not otherwise demonstrate that the Petitioner is one of the small percentage who has risen to the very top of his field of endeavor. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.