U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34753776

Date: FEB. 18, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a geoscientist and researcher specializing in volcanology, 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. Although finding that the Petitioner met the initial evidentiary criteria, the Director's final merits determination concluded that she did not establish herself as one of that small percentage to rise to the very top of her field. 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 sustain 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

A. Initial Evidentiary Criteria

The Petitioner is a geoscientist specializing in volcanology who is currently pursuing doctoral degrees at universities in Brazil and Hawaii. She intends to continue her geoscientific research in the United States.

Because the Petitioner has not indicated or shown that she 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). The Director determined that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(iii), (iv), (v), and (vi), which, respectively, relate to published material about the Petitioner, her participation as a judge of others' work in her field, her original contributions of major significance to her field, and her authorship of scholarly articles. The Director concluded, however, that the Petitioner did not meet the claimed criteria at (viii), which concerns an individual's performance in a leading or critical role for distinguished organizations or establishments. On appeal, the Petitioner contends that the Director overlooked evidence and did not consider the petition in its entirety when conducting a final merits analysis. The record supports the Director's determination that the Petitioner met the requirements of the criteria at (iii), (iv), (v), and (vi), and we conclude that the Petitioner has also met the criteria at (viii).

The Director determined that letters of support describing the Petitioner's leading and critical roles did not specifically address how her roles were leading or critical, concluding that the evidence did not establish that she was "responsible for any organization's, establishment's, division's, or department's success or standing to a degree consistent with the meaning of 'leading or critical role.'" Upon review, we observe that the letters of support provide detailed descriptions of the Petitioner's roles within programs and departments at several institutions. For example, she has performed in critical roles for the [redacted] the distinguished reputation of which is supported in the record by its recognition from the Carnegie Classification of Institutions of Higher Education for its very high research activity, and for the [redacted] which holds a highly regarded position within the QS World University Rankings.[1] A letter of support from a

[1] *See generally* 6 *USCIS Policy Manual* F.(2)(B)(2), www.uscis.gov/policy-manual.

professor and expert who works with the Petitioner on an exclusive research team at the [redacted] describes her critical role in the university's Department of Earth Sciences; the letter details her critical role in continuing the work of one of the university's lead researchers, who was also the Petitioner's advisor, following his death. The letter provides the following:

> For the last two years, she has been playing a crucial role in the Department of Earth Sciences at [redacted] in maintaining the isotope laboratory and science developed there. Since [the lead researcher] died, she was the only person at the [redacted] with the capability of conducting the element separation in the clean laboratory and operating the instrument Inductive Coupled Plasma-Mass Spectrometer (ICP-MS) using [his] methodology, a technique important for the study of the origin of submarine volcanos. She was responsible for supervising and finishing ongoing projects after his death, and has been essential to keep the lab functioning up to the present day . . . . Were it not for her dedication to continuing this work, the long-lived, traditional study of submarine volcanoes within the department of Earth Sciences at the [redacted] would have faced a significant decline or even ended.

The Petitioner has met the criteria at 8 C.F.R. § 204.5(h)(3)(viii). As the Petitioner has met the required initial evidentiary criteria, we will proceed to a final merits determination.

B. Final Merits Determination

To establish eligibility, the Petitioner must demonstrate that she has sustained national or international acclaim and that her achievements have been recognized in her field of expertise. Section 203(b)(1)(A)(i) of the Act. The Petitioner's level of acclaim and recognition must identify her as one of that small percentage who have risen to the very top of her field. 8 C.F.R. § 204.5(h)(2) (defining the term "extraordinary ability").

When making a final merits determination, USCIS considers any potentially relevant evidence of record, even if it does not fit one of the initial regulatory criteria or was not presented as comparable evidence. *See generally* 6 *USCIS Policy Manual* F.2(B)(2). The Petitioner bears the burden of explaining the significance of the evidence and how it demonstrates achievement of sustained acclaim and recognition in her field. *Id.* The type and quality of the evidence determines the petition's approval or denial. *Id.*

The Petitioner has included extensive documentation of her achievements as a geoscientist specializing in volcanology. This material, in the aggregate, is sufficient to demonstrate the Petitioner's sustained national acclaim as a geoscientist, that her achievements have been recognized in her field of expertise, and that she is among the small percentage who have risen to the very top of her field of endeavor.

The Petitioner and her work were featured in *O Globo*, a leading news publication in Brazil. She has presented her research at dozens of conferences for which she received unsolicited invitations, including the largest annual conference for volcanologists globally. She has also collaborated with researchers at numerous prominent universities in the United Kingdom and the United States. The

Petitioner has performed in critical roles for universities with distinguished reputations, including the [redacted] and the [redacted]

The record also demonstrates the Petitioner's original scientific contributions of major significance in her field. For example, a letter of support from an expert who worked with the Petitioner following the eruption of Mauna Loa in 2022 describes research that which she was later asked to publish in an international journal devoted entirely to the eruption. The letter provides the following:

> [The Petitioner's] pivotal contribution to this project cannot be overstated. It was her meticulous analysis of the videos supplied by the Hawaiian Volcano Observatory that initially identified the opportunity for a thorough investigation into the onset of the Mauna Loa eruption. As a result of this project, she has developed an innovative programming code that automatically extracts fountain heights, fissure lengths, and erupted volumes from videos filmed by the Hawaiian volcano Observatory during an eruption. This form of information is critical in eruption response and is a powerful tool in mitigating eruption hazards, which directly impact the communities that exist on the flanks of the volcanoes. The findings of this project represent original contributions promising to inform volcano monitoring methodologies. They offer an efficient means to quantify eruption dynamics and gain insights into subsurface patterns of flow of magma and gas and will be used at other volcano observatories around the United States and worldwide (in Iceland, for example), contributing substantially to the work of other volcano-monitoring scientists.

In addition, letters of support from university faculty overseeing her research describe one such contribution as her discovery that a volcano in Brazil thought to have last erupted 250,000 years ago was found by the Petitioner to have likely erupted only 60,000 years ago—a significant indicator of whether it will erupt again. According to one letter,

> It is extremely important for volcanologists to understand how long mantle plumes can be active for, and data is scarce in the South Atlantic Ocean. Having a precise determination of when the Trindade plume last erupted is crucial to compare this hotspot volcano and the others in the Atlantic to the long-lived ones in the Pacific Ocean, trying to understand the mantle structure underneath them and the origin of the heat source, [the knowledge of which is] still poorly constrained.

The record shows that the Petitioner's discovery concerning this volcano contributed to the interests of oil and gas organizations that encounter challenges when extracting material from areas around volcanoes. According to letters of support from representatives of Brazil's largest petroleum corporation, the Petitioner's proposal of "an integrated analysis of the porosity patterns of the defined lithofacies and their chemical signatures" provided "an example to [researchers who] investigate volcanic rock signatures in well-logs in oil basins" and, "[b]ased on the facies analysis of the deposits and characterization of their porosity patterns, she provided an analogous model for the exploitation of the oil and gas in unconventional reservoirs hosted in volcanic rocks." The Petitioner's work on this volcano also informed the oil and gas industry of the prospective desirability of "volcanic-sedimentary basins targeted by the energy industry."

Further, the letters of support from individuals who have worked with the Petitioner or who are familiar with her work—and who themselves are highly regarded geoscientists—highlight the Petitioner's research and contributions to the field of volcanology as exceptionally notable, one stating that she ranks among the top young scientists that they have encountered over the last 50 years. The Petitioner's undergraduate education was largely funded by a scholarship from Brazil's National Petroleum Agency, and she received awards during her graduate and post-graduate career, including two substantial awards for project proposals from the [redacted] She has presented for a U.S. Geological Survey (USGS) seminar series and has served as a USGS volunteer at Hawaii's Kilauea volcano, and she has worked in Greece researching the Santorini volcano as part of a program of study with the [redacted] In addition to presenting at conferences and workshops in Brazil and Hawaii, she has presented at prominent conferences attended by worldwide experts in the field in San Diego, San Francisco, Argentina, Amsterdam, and New Zealand. She has been invited to participate in research expeditions to explore volcanoes on the seafloor in Hawaii and American Samoa—projects sponsored by the Ocean Exploration Trust, whose partners include prominent universities, the Bureau of Ocean Energy Management, and the National Ocean and Air Association's Ocean Exploration division, which is the only federal organization dedicated to exploring the global ocean. The Hawaiian Volcano Observatory, with which the Petitioner has previously collaborated, has invited her to join its efforts researching Mauna Loa, the largest volcano by volume on Earth.

In addition to the Petitioner's recognition and experience within her field, she has several publications in major trade journals, most of which credit her as first-author and which demonstrate a high citation rate relative to others in the field. She has also peer-reviewed articles for notable scientific journals. A letter from a tenured volcanologist and earth scientist at the [redacted] who worked with the Petitioner states, "I have had no hesitation in recommending [the Petitioner] to journal editors for review work because she is an extraordinary scientist responsible for publishing important scientific research in the field."

We note that while the Petitioner may be in an early phase of her career, the evidence considered in the aggregate places her amongst the top scientists within the field of volcanology.[2] Therefore, the cumulative submitted evidence is sufficient to demonstrate the Petitioner's sustained acclaim and that her achievements have been recognized in her field of expertise.

III. CONCLUSION

Upon careful review of the record, we conclude that the Petitioner has shown by a preponderance of the evidence that she is within the small percentage of individuals who have risen to the very top of her field. The documentation submitted establishes that the Petitioner has sustained national or international acclaim, her achievements have been recognized in her field, she seeks to continue working in the same field, and her entry will substantially benefit prospectively the United States.

[2] "A beneficiary may be very young or early in his or her career and still be able to show sustained acclaim." 6 *USCIS Policy Manual* F.(2)(A)(1), www.uscis.gov/policy-manual.

The burden of proof in visa petition proceedings remains entirely with the Petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the Petitioner has sustained that burden. Accordingly, we will sustain the appeal.

ORDER: The appeal is sustained.