



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

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

MATTER OF Y-X-

DATE: SEPT. 23, 20105

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an individual who works in the area of stem cell biology, developmental biology, and neuroscience, seeks classification as a person “of extraordinary ability.” *See* Immigration and Nationality Act (the Act) § 203(b)(1)(A); 8 U.S.C. § 1153(b)(1)(A). The Director, Nebraska Service Center, denied the petition. The matter is now before us on appeal. The appeal will be sustained.

The classification the Petitioner seeks makes visas available to foreign nationals 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 determined that the Petitioner satisfied the initial evidentiary requirements of showing either (a) a one-time achievement or (b) documentation that meets at least three of the ten regulatory criteria set forth at 8 C.F.R §§ 204.5(h)(3)(i)-(x). However, after an analysis of the totality of the evidence provided, the Director determined that the record did not reflect her extraordinary ability. On appeal, the Petitioner submits a brief and other materials. For the reasons discussed below, the Petitioner has established eligibility for the classification sought.

I. LAW

Section 203(b) of the Act states in pertinent part:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph 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 regulation at 8 C.F.R. § 204.5(h)(3) sets forth two different methods by which a petitioner can exhibit extraordinary ability sustained by national or international acclaim and the recognition of the petitioner's achievement in the field. First, a petitioner may show a one-time achievement (that is, a major, internationally recognized award). Second, a petitioner can satisfy at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). If a petitioner opts for this second method of demonstrating extraordinary ability, the analysis is two-part: First, we assess whether the petitioner has satisfied at least three of the ten categories. If so, we then assess the record in its totality to determine if the petitioner is indeed one of those individuals in that small percentage who have risen to 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 evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS*, 772 F.Supp.2d 1339 (W.D. Wash. 2011) (affirming our proper application of *Kazarian*), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013) (finding that we appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that U.S. Citizenship and Immigration Services (USCIS) examines "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").

II. ANALYSIS

A. Evidentiary Criteria¹

The Petitioner has satisfied the following criteria.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The Director determined that the Petitioner demonstrated eligibility for this criterion. A review of the record reflects that the Petitioner submitted sufficient documentary evidence to show that she participated as a judge of the work of others in the same or an allied field, as required by 8 C.F.R. § 204.5(h)(3)(iv). Specifically, at the time of initial filing, the Petitioner had served as a peer-reviewer for four scientific journals, as well as evaluated grant applications for the Research Grants

¹ We have reviewed all of the evidence the Petitioner has submitted and will address those criteria the Petitioner claims to meet or for which the Petitioner has submitted relevant and probative evidence.

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Council of the [REDACTED] Special Administrative Region government. Accordingly, the Petitioner has met this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The Director determined that the Petitioner demonstrated eligibility for this criterion. A review of the record reflects that the Petitioner submitted sufficient documentary evidence to show that she made original contributions of major significance in the field, as required by 8 C.F.R. § 204.5(h)(3)(v). Specifically, the Petitioner's discoveries relating to [REDACTED] and [REDACTED] remodelers were of major significance in the field. Accordingly, the Petitioner has met this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The Director determined that the Petitioner satisfied this criterion. A review of the record reflects that the Petitioner submitted sufficient documentary evidence to show that she authored scholarly articles in professional or major trade publications or other major media, as required by 8 C.F.R. § 204.5(h)(3)(vi). Accordingly, the Petitioner has met this criterion.

B. Summary

The Petitioner has submitted the requisite initial evidence to satisfy three of the ten regulatory criteria.

C. Final Merits Determination

The next step is a final merits determination that considers all of the evidence in the context of whether or not the Petitioner has demonstrated: (1) 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," and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." Section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (h)(3). *See also Kazarian*, 596 F.3d at 1119-20.

In the denial, the Director concluded that, although the Petitioner satisfied three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x), the totality of the evidence in the record did not demonstrate a level of expertise indicating she is one of the small percentage at the top of the field who has sustained national or international acclaim. On appeal, the Petitioner states that the Director erred by minimizing her journal review, giving insufficient consideration to independent advisory opinions, and overlooking the prestige of the journals publishing and citing to her work.

The Petitioner received her degree in Clinical Medicine from [REDACTED] in China. She received her Ph.D. in Anatomy and Neurobiology from the [REDACTED] in 2008. She has

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been performing research at [REDACTED] from 2008 to the present. According to the Petitioner, the focus of her work in the field of stem cell biology, developmental biology, and neuroscience has been the focus of her research that led to discoveries regarding (a) the role of [REDACTED], and (b) [REDACTED] remodelers.

Based on her research performed at the [REDACTED] the Petitioner published three first-authored articles on the role of [REDACTED]. The articles were published in the [REDACTED] and [REDACTED]. At the time she submitted the instant petition, Google Scholar reported these articles had received 96, 35 and 12 citations, respectively.

In a reference letter,² [REDACTED] Professor of Pharmacology at the [REDACTED] in Italy, explained that the Petitioner discovered the essential role of [REDACTED] a reactive oxygen species, in tissue damage following spinal cord injury. He indicated that the Petitioner was the first to characterize a complete time course of [REDACTED] damage and cytoskeletal breakdown after spinal cord injury, which allowed her to identify that [REDACTED] is involved in lipid [REDACTED] damage as well as protein nitrative damage. This finding was an important discovery, not only because it opened up a new avenue of research in [REDACTED] damage, but also because it provided a drug target for early pharmacological intervention for acute spinal cord injury. The Petitioner further discovered that [REDACTED] a [REDACTED] scavenger, decomposes [REDACTED] free radicals in rodents, establishing a promising therapeutic strategy. [REDACTED] referred to numerous follow-up studies based on the Petitioner's findings, and confirmed that he himself had cited her work in two of his own research papers.

According to her supervisor at the Cardiovascular Institute at the [REDACTED] the Petitioner led four different projects in the lab and was the lead investigator for a grant from the [REDACTED]. The Petitioner's accomplishments while at [REDACTED] include the publication of an article regarding the role of two [REDACTED] remodelers, [REDACTED] and [REDACTED]. [REDACTED] the first ranked scientific journal, published the article in 2010. As of [REDACTED] 2014, Google Scholar reported 145 citations to the article. The Petitioner also published two first-authored articles in 2013 on the role of another [REDACTED] remodeler, [REDACTED]. These articles were published in the [REDACTED] ranked [REDACTED] of scientific journals, and [REDACTED] ranked [REDACTED] of journals in the field of Developmental Biology.

[REDACTED] an Assistant Professor in the Department of Genetics at the [REDACTED] [REDACTED] explained the significance of the Petitioner's discoveries:

² The Petitioner provided ten letters of recommendation that discuss her work. Although we discuss only a sampling of these letters, we reviewed and considered each one.

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Neural crest cells (NCCs) are one subtype of stem cells that have the capability to expand and differentiate into a variety of specialized cells and migrate throughout the body, forming important tissues and organs. Disruption of the NCCs development can cause many common congenital diseases in human . . . Moreover, it's well known that all the genetic information of cells (about 6 meters long DNA) is packed in highly condensed [REDACTED] (about 10 nm). [REDACTED] remodelers like [REDACTED] are important to "open up" the chromatin's structure and expose the DNA for the transcriptional factors to bind and then the gene and protein expression occurs. How NCC is formed and programmed to proliferate, differentiate and migrate was poorly understood. [The Petitioner] applied state-of-art technologies to unravel the epigenetic mechanisms that puzzled the scientists for decades.

[REDACTED] goes on to highlight the Petitioner's specific findings regarding the role of [REDACTED]. The Petitioner discovered that, without [REDACTED], mouse embryos developed cerebral arteries insufficiency, disrupted pharyngeal arch arteries, and shorter cardiac outflow tracts. These deficiencies highly mimic NCC-related human diseases. Most significantly, the Petitioner discovered that [REDACTED] interacts with a [REDACTED]-containing complex to regulate the NCC transcriptional factors, gene expression, and migration. As confirmed by [REDACTED] this finding provides a direct answer to the long unsolved question of how NCCs are regulated.

[REDACTED] Assistant Professor at [REDACTED] further emphasized the importance of the Petitioner's discovery regarding the role of [REDACTED]. According to [REDACTED] the Petitioner was the first to examine the role of [REDACTED] remodelers in the skin stem cell field. Because the Petitioner's theory and novel pathway were so original, [REDACTED] wrote a commentary article to further introduce the work. The commentary was accepted and published in [REDACTED]

[REDACTED] Professor at the [REDACTED] provided further information regarding the significance of the Petitioner's findings:

[REDACTED] [the Petitioner], for the first time in the world, found that the deletion of a gene, called [REDACTED] in HF stem cells abrogate the ability of these cells to regenerate hair follicle and epidermis in wounded skin of mice. The new mouse model that [the Petitioner] generated provides an unprecedented technique for scientists to investigate the packing and unpacking of genes in HF stem cells during hair and epidermis regeneration. Using this mouse model, many scientists have applied [the Petitioner's] findings to understand and quantify the role of [REDACTED] in the activation of hair follicle stem cells and to design medicines.

Both the reference letters and the corroborating articles in the record indicate that the Petitioner's research is respected and influential in the field. Many of the citing articles are themselves published in top journals. In addition to the articles described above, the Petitioner first-authored a chapter in the book, [REDACTED]. She also first-authored a review article

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published in [REDACTED] [REDACTED] speaks to the prestige of an invitation to write review articles. The Petitioner also acted as a peer-reviewer numerous times for four different scientific journals, including [REDACTED] ranked number one in the field of dermatology. In 2013, the Petitioner was selected to be a speaker at the [REDACTED] [REDACTED]. According to [REDACTED] Professor at the [REDACTED] the [REDACTED] is the most influential and largest conference in the field of [REDACTED]. Every year it attracts over 400 researchers from all over the world, and the Petitioner was one of four speakers selected from about 200 abstracts in the congenital heart disease field.

The Petitioner's success as a researcher indicates that she is one of the small percentage at the very top of her field. Her publishing history is of exceptional quality. Many of the journals that have published her work are the most prestigious in their field. Beyond acceptance by these journals, the Petitioner has also demonstrated that her work has had a significant impact after publication, both through the number and quality of citations, as well as through the qualitative descriptions provided in her reference letters. The Petitioner provided further documentation of her acclaim with her selection as a speaker at the [REDACTED] and her first-authorship of a textbook chapter and review article. With respect to her review responsibilities, not only has she engaged as a peer review for multiple journals, she has reviewed grants for the Research Grants Council under the auspices of the [REDACTED]. According to the materials in the record, the council funds eight institutions of higher learning in [REDACTED] and one of its main functions is to offer impartial and respected expert advice to the government. Lastly, we note that the Petitioner is currently conducting her research at [REDACTED] one of the top medical schools in the world. In the aggregate, the record confirms that the Petitioner is considered a leader in the field of stem cell biology, developmental biology, and neuroscience who has extraordinary ability.

In light of the evidence discussed above and other corroborating documents of record, the Petitioner's achievements in the aggregate are commensurate with sustained national and international acclaim at the very top of her field.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must show that the Petitioner has achieved sustained national or international acclaim and is one of the small percentage of individuals at the very top of her field of endeavor. When considered in light of the analysis outlined in the *Kazarian* decision, the Petitioner submitted has submitted the requisite evidence to satisfy three evidentiary categories and also to demonstrate that she has established his extraordinary ability when considered in a final merits decision.

In visa petition proceedings, it is the Petitioner's burden to demonstrate eligibility for the immigration benefit sought. 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 met that burden. She has shown that her achievements have been recognized in her field, that she seeks to continue to work in that same field in the United States, and that her entry will substantially benefit the United States. Therefore, the Petitioner has established eligibility for the benefit sought under section 203(b)(1)(A) of the Act.

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ORDER: The appeal is sustained.

Cite as *Matter of Y-X-*, ID# 13184 (AAO Sept. 23, 2015)