



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

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

MATTER OF J-G-K-

DATE: FEB. 9, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a policy analyst, seeks classification as an individual “of extraordinary ability” in the sciences. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(A); 8 U.S.C. § 1153(b)(1)(A). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be sustained.

The classification the Petitioner seeks on behalf of the Beneficiary 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 had not satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3), which necessitate a one-time achievement or satisfaction of at least three of the ten regulatory criteria. On appeal, the Petitioner submits a brief and other materials. For the reasons discussed below, the Petitioner has established his 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

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(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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *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 we examine "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 Criteria

The Director found the Petitioner met five of the necessary criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). Upon review, we find that the Petitioner meets three of the criteria, and has therefore provided sufficient initial evidence.

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 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 evidence to show that he participated as a judge of the work of others in the same or an allied field. Specifically, the Petitioner sits on the editorial board of the [REDACTED] and has refereed manuscripts for that publication. Accordingly, the Petitioner has met this criterion. 8 C.F.R. § 204.5(h)(3)(iv).

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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 evidence to show original contributions of major significance in the field. Specifically, the Petitioner provided letters of recommendation from experts in the field regarding his contributions. For example, [REDACTED] Managing Director of the [REDACTED] explained the reach of the Petitioner's reports and confirmed her own reliance on and dissemination of those reports in the field. Accordingly, the Petitioner has met this criterion. 8 C.F.R. § 204.5(h)(3)(v).

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

The Director did not address this criterion in his denial. A review of the record reflects, however, that the Petitioner has submitted evidence of his authorship of scholarly articles in the field. Specifically, the Petitioner has authored such articles published in academic journals such as [REDACTED]. For these reasons, the Petitioner has met this criterion. 8 C.F.R. § 204.5(h)(3)(vi).

B. Summary

The documentation provided satisfies the three criteria referenced above. As a result, the Petitioner has submitted the required initial evidence of either a one-time achievement or at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

C. Final Merits Determination

Because the Petitioner satisfied the antecedent evidentiary requirement under the two-part *Kazarian* analysis, we now conduct a final merits determination to determine whether the Petitioner has established his extraordinary ability demonstrated by sustained national or international acclaim and achievements recognized in the field through extensive documentation. § 203(b)(1)(A)(i) of the Act. The Director found in a final merits determination that the record does not support a finding of the Petitioner's extraordinary ability. In this section, the Director considered only the Petitioner's contributions rather than all of the exhibits.¹ After a thorough review of the totality of the submissions, we find that the Petitioner has corroborated sustained national or international acclaim in his field.

¹ The Director concluded in the final merits section that the Petitioner had not demonstrated that his contributions were of major significance after stating in part one that the Petitioner met the requirements of 8 C.F.R. § 204.5(h)(3)(v), which requires that the Petitioner show contributions of major significance in the field.

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The Petitioner received an undergraduate degree and an MBA from [REDACTED], followed by a Masters Diploma in Computer Science from [REDACTED]. He earned a Ph.D. in Policy Analysis from the [REDACTED] in 2006. From 2006 to 2008, the Petitioner was a Research Associate at the [REDACTED]. From 2008 to 2009, he was a consultant for [REDACTED]. From 2009 to the present, the Petitioner has been a visiting fellow at the [REDACTED]. From 2009 to present, he has also been a Policy Advisor and Researcher at the [REDACTED]. The Petitioner's current work includes providing advisory services for client governments on an array of policy issues. He is also currently leading a study funded by the [REDACTED] examining five crop staples across five African countries.

As noted above, the Petitioner has published or presented several papers in academic journals and at respected forums. He is also on the editorial board of the [REDACTED]. A letter from an editor of the [REDACTED] indicated that he was asked to join the board specifically due to his expertise on African futures. In addition, he is a writer and editor for [REDACTED] a publication of the [REDACTED], which is supported by the [REDACTED]. Credit as one of a limited number of editors affords name recognition and is consistent with acclaim. According to [REDACTED] has become a flagship publication for [REDACTED] and is distributed to hundreds of subscribers in West Africa. [REDACTED] confirmed that she regularly disseminates the reports to her colleagues at the [REDACTED] and has worked with partner organizations to ensure they are available on blogs with a global reach.

The Petitioner submitted letters from other experts in the field that also explained the important nature of his work. [REDACTED] Director of the [REDACTED] stated that little forecasting has been done in Africa and that the Petitioner's work is therefore "breaking new ground." [REDACTED] Senior Economist at the [REDACTED] discussed the Petitioner's studies and papers on the long term future of Africa and described them as "original and significant works in the field." [REDACTED] Professor of Education, Economics and Policy at the [REDACTED] worked with the Petitioner to develop educational system reforms in [REDACTED] with the goal of shifting its oil- and gas-based economy to a knowledge-based economy in the future. [REDACTED] Chief of the Foresight Section, Bureau of Strategic Planning, [REDACTED] noted that the Petitioner "has continued to assist [REDACTED] to advance its mission related to scoping anticipatory capacities, in Africa and in specific countries, like Sierra Leone."

Finally, the record shows further recognition of the Petitioner's abilities through his membership in the [REDACTED]. Significantly, he was one of 30 individuals from around the world chosen to be a part of the inaugural committee featured at the [REDACTED] annual meeting in Switzerland. The inaugural members include leaders from the [REDACTED].

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[REDACTED]
among others.

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

III. CONCLUSION

The Petitioner has submitted the requisite evidence to satisfy three of the initial criteria and also to demonstrate his extraordinary ability when considered in a final merits decision. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. § 291 of the Act, 8 U.S.C. § 1361. Here, the Petitioner has met that burden and shown eligibility for the benefit sought under section 203(b)(1)(A) of the Act.

ORDER: The appeal is sustained.

Cite as *Matter of J-G-K-*, ID# 15501 (AAO Feb. 9, 2016)