



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

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

MATTER OF B-U-

DATE: JUNE 16, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a journalist, 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 Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only one of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner claims that he meets six criteria. He argues that the Director's decision was erroneous and not supported by the record. With his appeal, the Petitioner submits a brief and additional evidence.

Upon *de novo* review, we will dismiss the appeal.

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 implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence 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 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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle 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." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner indicates that he is "the [redacted] South Asian outlets" serving English, Urdu, and Hindi language audiences in India and Pakistan. He further states that he reports "on South Asia related issues in the U.S. for [redacted] and [redacted] in English." As the Petitioner has not established that he has received a major, internationally recognized award, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner met the leading or critical role criterion at 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner maintains that he also meets the awards criterion at 8 C.F.R. § 204.5(h)(3)(i), the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii), the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v), and the scholarly articles criterion under 8 C.F.R. § 204.5(h)(3)(vi). He further argues that he has demonstrated his sustained national or international acclaim and that he is among the small percentage at the very top of the field of endeavor. Upon review of all of the evidence, we conclude that it does not support a finding that the Petitioner meets the plain language requirements of at least three criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner submitted a certificate stating that he received a "British Chevening Scholarship" to pursue studies at the [REDACTED] from [REDACTED]. Funded by the United Kingdom's (UK) Foreign and Commonwealth Office, Chevening scholarships offer "a unique opportunity for future leaders, influencers, and decision-makers from all over the world to develop professionally and academically, network extensively, experience UK culture, and build lasting positive relationships with the UK." A page from the Chevening "30th Anniversary Yearbook" provided by the Petitioner stated: "Chevening Scholarships are awarded to outstanding emerging leaders to pursue one-year Master's degrees in any subject and at any of the UK's leading universities. . . . Chevening operates in more than 160 countries and territories, and in the 2015/2016 academic year the scheme will support over 1,500 individuals." The Petitioner also offered information from the Chevening website listing the scholarship's eligibility criteria:

- Be a citizen of a Chevening-eligible country
- Return to your country of citizenship for a minimum of two years after your award has ended
- Have an undergraduate degree that will enable you to gain entry to a postgraduate programme at a UK university. . .
- Have at least two years' work experience
- Apply to three different eligible UK university courses and have received an unconditional offer from one of these choices . . .
- Meet the Chevening English language requirement . . .

The above criteria do not reflect that the British Chevening Scholarship is a nationally or internationally recognized prize or award for excellence in journalism.

The record includes a March 2016 letter from [REDACTED] North America editor for the [REDACTED] stating: "[The Petitioner] won the prestigious British Chevening Scholarship which only considers candidates with five years or more of experience. He had only three, but still won it. This is a truly selective scholarship that selects students with leadership qualities . . ." We note that Mr. [REDACTED] assertion that the scholarship "only considers candidates with five years or more of experience" contradicts the aforementioned eligibility criteria which require only "two years' work experience."¹ In addition, [REDACTED] editor for [REDACTED] asserted that "the Chevening award figures among the best international recognitions available for journalists in our part of the world." In this instance, the uncorroborated statements from the Petitioner's colleagues are not sufficient to demonstrate that his Chevening scholarship for pursuit of graduate studies meets the requirements for this regulatory criterion. See *Visinscaia*, 4 F.Supp.3d at 134-35; *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (holding that an agency "may, in its

¹ The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

discretion, use as advisory opinions statements . . . submitted in evidence as expert testimony,” but is ultimately responsible for making the final determination regarding a petitioner’s eligibility for the benefit sought and “is not required to accept or may give less weight” to evidence that is “in any way questionable”).

With the appeal, the Petitioner submits an article entitled “Top 10 Prestigious Scholarships for the Best International Students” from www.scholars4dev.com. The article lists ten scholarship programs, including “Chevening Scholarships (UK),” but does not state that the Chevening program requires excellence in the field of journalism. He also provides information about Chevening scholarships from the Association of Commonwealth Universities’ (ACU) website. The information indicates that “[t]here are over 44,000 Chevening alumni worldwide” and that the program “grants awards to outstanding scholars with proven leadership potential and a commitment to creating positive change.” Additionally, the ACU webpage describes the selection process which involves assessment by an “independent Reading Committee” and then review by “the British Embassies and High Commissions overseas who create a shortlist of candidates to interview.” As the aforementioned documentation is insufficient to demonstrate that the British Chevening Scholarship is a nationally or internationally recognized prize or award for excellence in the field of journalism, the Petitioner has not established that he meets this regulatory criterion.

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 Petitioner submitted a reprint of his article entitled [REDACTED] in [REDACTED]. In addition, the Petitioner offered articles in [REDACTED] and [REDACTED] briefly referencing “[REDACTED]” and “[REDACTED]” news coverage. The plain language of the regulatory criterion requires “published material about the alien.” As the aforementioned articles are not about the Petitioner, they do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-00820 at *1, *7 (D. Nev. Sept. 2008) (upholding a finding that articles about a show are not about the actor). Furthermore, the record includes insufficient evidence showing that [REDACTED] and [REDACTED] readership numbers elevate them to major media relative to other news sources. The Petitioner also provided a technology blog from [REDACTED] entitled “[REDACTED]” but the author of the material was not identified and there is insufficient evidence showing that the website is a form of major media.

Additionally, the Petitioner contends that he is “a ‘public face’ of the world-renowned [REDACTED] news organization.” He offered a letter from [REDACTED], head of business development in Asia and the Pacific region for [REDACTED] stating that the Petitioner “was the first choice when we decided to put a face to the [REDACTED] in India. His pictures were plastered across billboards and postcards in parts of India where we wanted to further enhance our presence.” The Petitioner also submitted a photograph of a “[REDACTED] promotional billboard in

India” featuring him and three other newsmen. The plain language of this regulatory criterion requires “published material about the alien in professional or major trade publications or other major media” including “the title, date and author of the material.” A billboard or postcard promoting the Petitioner’s broadcast programming does not meet these requirements. Accordingly, the Petitioner has not established that he meets this criterion.

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. 8 C.F.R. § 204.5(h)(3)(iv).

As evidence for this criterion, the Petitioner submitted two letters from Mr. [REDACTED]. Although Mr. [REDACTED] identifies himself as North America editor for [REDACTED] neither of his two letters bears the letterhead, address, or telephone number of that news organization.² In his March 2016 letter, Mr. [REDACTED] mentioned his prior employment as “a senior correspondent with [REDACTED]” and asserted that the Petitioner joined his “team as a copy editor” and worked on “breaking stories.” In addition, he indicated that the Petitioner later served “as Assistant Editor with the [REDACTED] [REDACTED] online outfit.” Mr. [REDACTED] initial letter offered no further description of how the Petitioner participated as a judge of the work of others at [REDACTED]. If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The Director’s request for evidence asked the Petitioner to submit further documentation establishing that he “actually participated in the judging of the work of others.” In response, the Petitioner provided a September 2016 letter from Mr. [REDACTED] stating:

As an Assistant Editor at [REDACTED], [the Petitioner] held a wide variety of responsibilities, many of which involved judging the quality, style, and content of the work of other journalists – his peers – at the paper. As the leader charged with revamping the newspaper’s online edition, [the Petitioner] determined the type of content produced by fellow journalists, the look of the online site, and the nature and number of articles to be written.

Furthermore, he was responsible for ensuring the factual accuracy of all articles and that articles were consistent with and in support of the revitalization plan that he had developed, never forgetting the emphasis on achieving maximum impact for each piece. In each case [the Petitioner] was responsible for judging the work of journalists on his team regardless of their title or seniority

² In addition, as noted above, Mr. [REDACTED] March 2016 letter offered a statement that was inconsistent with information provided from the Chevening website. The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N at 591-92.

Repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990); *Ayvr Associates, Inc. v. Meissner*, No. 95 CIV. 10729, 1997 WL 188942, *1, *5 (S.D.N.Y. Apr. 18, 1997). A petitioner must show that he actually participated in the judging of the work of others in the same or allied field of specialization.³ Here, although Mr. [REDACTED] asserts that the Petitioner judged the work of his colleagues at [REDACTED] in his capacity as assistant editor, Mr. [REDACTED] letter lacks specific information about the journalists whose work the Petitioner judged and the articles that he reviewed. Furthermore, the Petitioner did not offer documentary evidence of his review or edits of any specific articles or online content showing that he participated as a judge of the work of others consistent with this regulatory criterion. Without supporting evidence, the Petitioner has not met his burden of showing that he meets this criterion.

Evidence of the alien'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).

As evidence under this criterion, the Petitioner provided several reference letters. The Director considered the letters and concluded that, although they discussed the background and achievements of the Petitioner, they were insufficient to establish that his work constitutes original contributions of major significance in the field. Specifically, the Director noted that the Petitioner had not shown that his work has made a significant impact beyond the news organizations that employed him.

On appeal, the Petitioner asserts that Director disregarded the "detailed expert testimonials" discussing his work as a global journalist. He further contends that "his contributions over the course of his long career have been 'original' and are considered by his peers to be of major significance in the field of journalism as a whole and even more so within his sphere of expertise, Asian affairs."

The record includes letters of support from the Petitioner's current and former coworkers and those with whom he has established professional relationships.⁴ For example, [REDACTED] bureau chief for the Americas, indicated the Petitioner "likes to experiment with the different ways of telling a story in the current digital world." Mr. [REDACTED] noted that, when covering the [REDACTED] Prime Minister's visit to the United States, the Petitioner "chose to broadcast live for [REDACTED] in the UK [United Kingdom], [REDACTED] and [REDACTED] from a mobile phone mounted on a tripod, without any additional technical support, allowing for rapid news transmission a low cost." In addition, the Petitioner offered a technology blog from Shakenlime.com that mentions his [REDACTED] post in which he explains how he used his I-phone to broadcast live coverage of the Prime Minister's U.S. visit. The technology blog and letter from Mr. [REDACTED], however, did not offer examples of how the Petitioner's I-phone broadcast technique has affected the journalism field in a

³ See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 8* (Dec. 22, 2010), <http://www.uscis.gov/laws/policy-memoranda>.

⁴ We discuss only a sampling of these letters, but have reviewed and considered each one.

substantial way or has otherwise risen to the level of an original contribution of major significance in the field.

Furthermore, Mr. [REDACTED] stated that the Petitioner produced a multimedia show while working for [REDACTED] bureau entitled ' [REDACTED] ' Mr. [REDACTED] indicated that "[t]his show was a first of its kind for the [REDACTED] where we partnered with a commercial player and linked a panel in [REDACTED] to live audiences in four countries – Pakistan, Bangladesh, Sri Lanka and Nepal." Both Mr. [REDACTED] and Mr. [REDACTED] contended that "the success of this project resulted in a template for future" television partnerships in India, but they did not specifically identify any such partnerships. In addition, the record does not include documentary evidence of the Petitioner's show's television ratings, longevity, viewership statistics, impact on other news programs, or any other supporting evidence demonstrating that his project has risen to the level of an original contribution of major significance in the journalism field.

[REDACTED] editor for [REDACTED] asserted that the Petitioner has gotten "some of the [REDACTED] biggest interviews. He was the first to speak with the family of [REDACTED] hostage [REDACTED] because of his ability to reach audiences in both Urdu and English." The record, however, does not include supporting documentation showing that the Petitioner's interview with the [REDACTED] family or his other news stories equate to original journalistic contributions of major significance in the field.

As an example of the impact of his work, the Petitioner's appeal includes a book entitled [REDACTED] [REDACTED] that references numerous information sources. [REDACTED] lists a news report by the Petitioner in [REDACTED] along with six other articles by different authors. In addition, the Petitioner provides a Congressional Research Service Report for Congress entitled "[REDACTED] that has [REDACTED] footnotes. [REDACTED] lists a [REDACTED] report by the Petitioner and another article from [REDACTED] The record includes a few more examples of articles from other news organizations that reference the Petitioner's [REDACTED] news reports; however, the articles do not reflect that his work was singled out as of major significance in the field of journalism. Rather, the Petitioner's reporting was utilized as background information to the authors' work. In this case, the Petitioner has not demonstrated that the citations and references to his news stories considered both individually and collectively, are commensurate with contributions "of major significance in the field."

[REDACTED], a [REDACTED] and spokesperson for the [REDACTED] [REDACTED] stated that she and her colleagues hired the Petitioner "to translate into Urdu and Hindi the entirety of our press guidance on India, Pakistan, Afghanistan, and regional issues." In addition, Ms. [REDACTED] indicated that they "regularly select [the Petitioner] for exclusive interviews with Department principals because we know he will present our policy messages objectively and avoid sensationalism" She further notes that she has "come to rely upon [the Petitioner] as the one unbiased journalist covering India, Pakistan, and Afghanistan – nations with complex relationships with one another and with the U.S., but with whom the U.S. policy interests are critical to national security, counter terrorism, and regional stability." While Ms.

praises the Petitioner's integrity as a journalist and unbiased coverage of U.S. foreign policy, the record does not show that the Petitioner's translation work and interviews of U.S. officials constitute original contributions of major significance in the journalism field.

The letters considered above primarily contain discussions of the Petitioner's work and attestations of his status in the field without providing specific examples of how those contributions rise to a level consistent with major significance in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990). Without additional supporting evidence showing that his work has been unusually influential, has substantially impacted the journalism field, or has otherwise risen to the level of original contributions of major significance in the field, the Petitioner has not established that he meets this regulatory criterion.

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 Petitioner submitted a selection of his published news articles. For example, he provided articles entitled "[redacted]" and "[redacted]". The Director determined that the Petitioner's news articles were not scholarly articles in the field of journalism, as required by the plain language of the criterion.⁵

On appeal, the Petitioner cites to the *Oxford English Dictionary* definition of "scholarly" as "[p]ertaining to, or characterizing, a scholar; befitting, or natural to, a scholar; learned, erudite." He contends that the preceding "definition makes clear that work becomes scholarly by virtue of its author and its subject matter, not its intended audience." Nonetheless, the Petitioner also claims that his articles are "intended for a 'learned' audience," as they are followed by "many respected politicians and government officials." Additionally, he mentions the letter from Ms. [redacted] who asserts that the Petitioner's articles "were written for and intended to be read by learned persons in this field." She further states: "I know from the letters we receive at our office that our news coverage is respected and relied upon by people from all walks of life, including professionals in government, think-tanks, nonprofits, the military, and business environments."

As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. For other fields, a scholarly article should be written for learned persons in that field. Learned persons include all persons having profound knowledge of a field. "Learned" is defined as "having or demonstrating profound knowledge or scholarship." USCIS Policy Memorandum PM-602-0005.1, *supra*, at 9. In this instance, the Petitioner has not provided sufficient evidence demonstrating that his news stories were written for learned journalists or that

⁵ In addition, the Director pointed to an article in the record that was not authored by the Petitioner, but which offered an example of a scholarly article. He noted that "[redacted]" by [redacted] in the [redacted] was written by and for learned persons in a particular field of study, was peer-reviewed, and contained numerous references to sources used in the article.

they otherwise constitute scholarly articles in the field of journalism. Accordingly, the Petitioner has not established that he meets this regulatory criterion.

Evidence that the alien 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 determined that the Petitioner's documentation reflected that he, as [REDACTED] performed in a critical role for [REDACTED] a news organization that has a distinguished reputation. The record supports the Director's finding that the Petitioner meets this regulatory criterion.

III. CONCLUSION

The Petitioner is not eligible because he has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought.

ORDER: The appeal is dismissed.

Cite as *Matter of B-U-*, ID# 419130 (AAO June 16, 2017)