



U.S. Citizenship  
and Immigration  
Services

Non-Precedent Decision of the  
Administrative Appeals Office

MATTER OF Z-L-

DATE: APR. 4, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a research scientist, seeks classification as an individual of extraordinary ability in the sciences. 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 Acting Director of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied three of the initial evidentiary criteria but that he had not demonstrated the requisite acclaim or shown that he is one of that small percentage at the very top of the field of endeavor. On appeal, the Petitioner submits additional evidence and argues that he has established eligibility for this classification.

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

I. LAW

Section 203(b)(1)(A) of the Act states:

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 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 that 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) (including items such as awards, published material in certain media, and scholarly articles). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if it demonstrates that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to a beneficiary’s occupation.

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 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), *aff’d*, 683 F.3d 1030 (9th Cir. 2012); *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”). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of 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.

## II. ANALYSIS

### A. Background

The Petitioner is a research scientist in the specialized field of [REDACTED] chemistry, the study of chemical compounds containing at least one chemical bond between a carbon atom of an organic molecule and a metal. He currently works for [REDACTED] focusing on the synthesis of a series of hormone derivatives that work as [REDACTED]. In this role, he is responsible for developing new synthetic reactions for pharmaceutical molecule production and demonstrating mechanistic relations between molecular structures and studied chemical properties.

As he has not established that he has 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). In denying the petition, the Director found that the Petitioner met the criteria for judging, authorship of scholarly articles, and contributions of major significance to the field,<sup>1</sup> and we agree with those determinations. The Director then conducted a final merits analysis finding that the Petitioner had

<sup>1</sup> See 8 C.F.R. § 204.5(h)(3)(iv), (vi), and (v), respectively.

not demonstrated achievements indicating he is one of that small percentage at the very top of the field of endeavor. On appeal, the Petitioner maintains that his research accomplishments and the commercialization of his inventions render him eligible for the benefit sought and that the Director's decision reflects "arbitrary and vague standards of review in the final merits determination process."

#### B. Final Merits Determination

As the record satisfies three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), we will analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. We evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, making him one of the small percentage who have risen to the very top of 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. In the present matter, the Petitioner has shown his eligibility for this classification. The Petitioner has offered proof showing his pioneering research and the impact that it has had on the organometallic chemistry field, letters from experts in his field, data on the prestige related to journals that published his work and his citation rates compared to others within his field, and evidence of the commercialization of his inventions.

We evaluate the significance of the Petitioner's judging experience to determine if such evidence is indicative of his extraordinary ability as required for this highly restrictive classification. See *Kazarian*, 596 F. 3d at 1121-22. Here, the record documents that he has received and completed independent requests to review a substantial number of manuscripts for multiple highly ranked professional publications including [REDACTED]

[REDACTED] We find this experience, together with the achievements described below, to be consistent with a determination that the Petitioner is among the small percentage at the top of his field of endeavor. See 8 C.F.R. § 204.5(h)(2).

With respect to his scholarly articles, the Petitioner has provided evidence of his authorship of a considerable amount of published material that appeared in professional journals, including multiple articles in [REDACTED]. In addition, the record includes evidence that the Petitioner's work was selected and highlighted on the journal cover of [REDACTED] the leading peer-reviewed journal in the field of organometallic chemistry. As authoring scholarly articles is inherent to scientists and researchers, the citation history or other evidence of the influence of the Petitioner's articles is an important indicator of the impact and recognition that his work has had on the field and whether such influence has been sustained. In this case, the Petitioner has offered extensive evidence that his articles in [REDACTED] and [REDACTED] have garnered an unusually high number of citations for his field, and that his other work has also been highly cited.

Further, the record includes numerous examples of citing works that highlight the Petitioner's research or discuss it at length, as opposed to merely referencing it in passing. Even after the filing

of this appeal; his work continues to be cited at a level commensurate with sustained acclaim at the top of his field and the record includes documentation showing that his articles are among the most highly viewed articles in the field often in the top [redacted] of all scholarship. As such, the Petitioner has established that his publication record sets him apart through a "career of acclaimed work in the field." See H. Rep. No. 101-723, at 59 (Sept. 19, 1990).

The record also includes several recommendations from experts in the field applauding the Petitioner's discoveries and attesting to the significance of his research.<sup>2</sup> For example, [redacted] professor of chemistry and director of the [redacted] at the [redacted] comments that the Petitioner's work places him in the "top [redacted] of all researchers in his field and that his contributions "have provoked widespread commentary in the context of pharmaceutical synthesis and renewable energy." He further states that the Petitioner's work "is acclaimed by fellow researchers all over the world." [redacted] chief scientist with the [redacted] agrees that the Petitioner's work in hydrogen storage and developing new synthetic methodologies has rendered him "one of the few preeminent engineers at the very top of his field." Several recommenders also comment that the Petitioner's development of a clean method of turning greenhouse gas into hydrogen fuel is significant because he found a way to produce hydrogen while also recycling harmful carbon dioxide through the [redacted]. This is the first catalyst that releases hydrogen without generating additional environmental pollutants. [redacted] of the [redacted] calls his work "stunning" and recognizes him as "an authority in the field." Finally, [redacted] professor and director of hydrocarbon chemistry at the [redacted] states that the catalytic system developed by the Petitioner is the "best up-to-date homogeneous system for selective hydrogen release from [redacted] and "a very important technological advance" that is a "giant step toward on-demand hydrogen release technology."

Finally, the record includes ample documentary evidence supporting the aforementioned references' statements regarding the originality of the Petitioner's work and its significance to the field as a whole. In addition to the extensive citations to his articles, he provided intellectual property documents identifying him as an inventor on several patents, evidence of the commercialization of his inventions,<sup>3</sup> and statements from numerous experts in the field confirming that they are directly using his work to further their own.

In summary, the Petitioner has demonstrated his extraordinary ability. The totality of the evidence establishes that he possesses a level of expertise that is consistent with a finding that he is one of a small percentage at the very top of the field of endeavor and that he has documented sustained

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<sup>2</sup> We discuss only a sampling of these letters, but have reviewed and considered each one.

<sup>3</sup> For example, [redacted] senior research chemist with [redacted] provided an independent evaluation of the Petitioner's work commenting that he was the first scientist to develop a bifunctional ruthenium catalyst for [redacted] which was later patented and developed commercially by [redacted]. He states that his own company uses this catalyst (and its corresponding patent) to prepare amines because the "catalyst is highly efficient and reactive, resulting in high yields of the desired products and easy work-up steps."

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acclaim. See section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *Kazarian*, 596 F.3d at 1119-20.

### III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national and international acclaim and that his achievements have been recognized through extensive documentation. Finally, the Petitioner has indicated that he intends to continue working in his area of expertise. He therefore qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is sustained.

Cite as *Matter of Z-L-*, ID# 1034540 (AAO Apr. 4, 2018)