



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

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

MATTER OF Y-X-

DATE: DEC. 20, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a researcher in environmental engineering, 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 the initial evidentiary criteria but that she had not demonstrated eligibility in the final merits discussion.

On appeal, the Petitioner submits additional evidence and contends that she qualifies as an individual of extraordinary ability in the final merits analysis.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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, memberships, and published material in certain media).

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 is a researcher in environmental engineering. As she has not established that she has received a major, internationally recognized award, she must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

A. Evidentiary Criteria

The Acting Director found that the Petitioner met the following criteria: judging at 8 C.F.R. § 204.5(h)(3)(iv), contributions of major significance at 8 C.F.R. § 204.5(h)(3)(v), and authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi). We agree with these conclusions. The evidence in the record indicates that she has reviewed manuscripts for several journals. She has received 11 patents that were granted by China’s state intellectual property office as utility patents. The record reflects that she has developed methods of purifying water that companies in China have successfully utilized, which has resulted in significant reduction in costs, thus demonstrating that her research is impacting the field. Finally, she has authored articles that have appeared in professional publications. Accordingly, the Petitioner has satisfied three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3). We will evaluate the totality of her documentary evidence in the context of the final merits determination below.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will evaluate whether she has demonstrated, by a preponderance of the evidence, that she has sustained national or international acclaim and is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if her successes are sufficient to demonstrate that she has extraordinary ability in 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 this matter, we find that she has shown her eligibility.

The record indicates that in 2004 the Petitioner received her Ph.D. degree in Engineering from the [REDACTED] in China. She served as an associate professor at the [REDACTED] from 2006 to 2015, apart from one year in 2008 as a visiting scholar at the [REDACTED]. As mentioned above, she has reviewed manuscripts, made original contributions of major significance, and authored scholarly articles.

Regarding the Petitioner's participation as a judge of others' work, the record demonstrates that the Petitioner has a consistent history of completing a substantial number of review requests for highly rated journals. We find that this judging experience, together with the achievements described below, is consistent with a determination that she is among the small percentage at the top of her field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

With respect to the Petitioner's original contributions in the field, the Acting Director held that the Petitioner met the initial evidentiary criterion but concluded in the final merits analysis that she had not shown how her contributions amounted to contributions of *major* significance. We note that the evidentiary criterion under 8 C.F.R. § 204.5(h)(3)(v) requires original contributions of major significance, which the Acting Director held was met; thus, the inquiry in the final merits should have focused on whether the evidence in the record establishes that she has risen to the very top of the field and that she has sustained national or international acclaim. 8 C.F.R. § 204.5(h)(2)-(3).

Here, the record reflects that the Petitioner has risen to the very top of her field. She has developed 11 patents based on her research, which were granted by China's state intellectual property office as utility patents. The record demonstrates that numerous companies have utilized her developments from these patents to improve water quality while increasing profits and reducing costs. [REDACTED] an associate professor of civil and environmental engineering at [REDACTED] indicates that the Petitioner has "devoted her professional career to potable water purification science and engineering for more than 15 years," and that she has "made significant contributions on enhancing drinking water quality and developing the sustainability of water recover and reuse in China." [REDACTED] professor of civil and environmental engineering at [REDACTED] notes in his letter that the Petitioner "put forward an innovative process, which integrates the nucleation of flocs re-growth with membrane to purify potable water." He then acknowledges that "Chinese water treatment companies certified that carrying out this pioneering technology not

only enhanced the finished water quality but also generated huge profits in 2012-2015.” Other evidence in the record establishes that the Petitioner has frequently been a consultant to water treatment companies in China, she was the first to report quinolone antibiotics in drinking water treatment plants, and she developed immersed membrane system applications utilized by several Chinese aquatic companies. This demonstrates the Petitioner has risen to the very top of her field.

As to her acclaim in the field, the record reflects that the Petitioner has presented at international conferences held by national institutions such as the [REDACTED] and the [REDACTED] as well as academic entities such as the [REDACTED] and the [REDACTED] Colombia. She has been invited to present her research at conferences in her field in China,, Portugal, Germany, Italy, France, and Australia. The record also demonstrates that in 2013 she won a second place science and technology award in [REDACTED] China, for her [REDACTED] which was presented by the governor of the province. In 2016, the Petitioner won another second place science and technology award for her research in [REDACTED]. Together, this evidence demonstrates that she has sustained acclaim for her accomplishments.

The record contains evidence showing that the Petitioner has authored numerous scholarly articles from 2003 to 2017 which have been published in prominent journals. The Acting Director compared the Petitioner’s experiences to those who had written letters on her behalf and held that she had not reached the level of these individuals to demonstrate that she is at the very top of the field with sustained acclaim. On appeal, the Petitioner states that a comparison to these individuals is an inaccurate assessment due to the longevity of the careers these individuals have had in the field. We agree. We conclude here that the evidence in the record demonstrates that the Petitioner has a strong publication history with a large number of citations to her work in relation to others in her field. This demonstrates that the importance of her research is widely acknowledged in the field, which is corroborated by the evidence that companies are successfully putting her developments into use as well as the international presentations she has given or been invited to give. In the totality of the evidence, we find that the record sufficiently establishes that the Petitioner has sustained national or international acclaim and is among the small percentage at the top of her field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

The Petitioner has shown that she meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). She has also demonstrated sustained national and international acclaim and that her achievements have been recognized through extensive documentation. She therefore qualifies for classification as an individual of extraordinary ability.

Matter of Y-X-

ORDER: The appeal is sustained.

Cite as *Matter of Y-X-*, ID# 1819611 (AAO Dec. 20, 2018)