



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

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

MATTER OF G-R-

DATE: NOV. 19, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a researcher, 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 Director of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had shown that he met three of the ten initial evidentiary criteria but that he did not but that he did not establish eligibility in the final merits analysis.

On appeal, the Petitioner submits additional evidence and contends that he meets three criteria.

Upon *de novo* review, we will dismiss 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 research associate specializing in nephrology. As he 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).

A. Evidentiary Criteria

The Director held that the Petitioner established that he met the criteria for judging under 8 C.F.R. § 204.5(h)(3)(iv), original contributions of major significance under 8 C.F.R. § 204.5(h)(3)(v), and scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi). Because he met the three initial requirements, the Director considered the evidence in the record regarding a final merits determination and concluded that the record did not establish that the Petitioner had the sustained national or international acclaim in the field

We agree with the Director’s conclusions that the Petitioner meets the judging, contributions, and scholarly articles criteria. For judging, the record reflects that he has conducted peer reviews for the *Chinese Journal of Pathophysiology*, the *Chinese Journal of Nephrology*, the *Journal of Kidney Disease*, the *International Journal of Urology and Nephrology*, and the *Journal of Clinical Nephrology*, among others. For original contributions of major significance, the record contains letters from other researchers who attest to the Petitioner’s contributions that have led to key findings regarding how kidney disease progresses as well as the development of new therapies in the field. The record also shows that he has published scholarly articles in *Molecular Immunology*, the *Journal of Biological Chemistry*, *Kidney International*, and *Clinical Immunology*, among others. This demonstrates that the Beneficiary meets three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3).

Accordingly, we will evaluate the totality of the evidence in the context of the final merits determination below.

B. Final Merits Determination

As the Petitioner has established that he meets the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim and that he is one of the small percentage at the very top of the field of endeavor, and that his 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 his successes are sufficient to demonstrate that he 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 determine that the Petitioner has not shown his eligibility.

The record reflects that the Petitioner received his Ph.D. from [REDACTED] of Medical Sciences in 1994 and that he is currently employed as a researcher for the [REDACTED]. As mentioned above, the Petitioner has reviewed manuscripts, provided original contributions of major significance to his field, and authored scholarly articles. However, he has not demonstrated that he has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(3).

Regarding the Petitioner's participation as a judge of others' work under 8 C.F.R. § 204.5(h)(3)(iv), an evaluation of the significance of his judging experience is sanctioned under *Kazarian*, 596 F.3d at 1121, to determine if such evidence is indicative of the extraordinary ability required for this highly restrictive classification. Participation in the peer review process does not automatically demonstrate that an individual has sustained national or international acclaim at the very top of his field. Here, the record reflects that the Petitioner has conducted 32 peer reviews for the *Chinese Journal of Pathophysiology*, the *Chinese Journal of Nephrology*, the *Journal of Kidney Disease*, the *International Journal of Urology and Nephrology*, the *Journal of Clinical Nephrology*, among others.

The Petitioner claims that documents in the record from Publons.com demonstrate how his review history compares to others in the field of nephrology. The record contains the Publons profiles of two researchers who are both listed as being in the top six percent of reviewers in nephrology for having conducted 30 reviews. Accordingly, the Petitioner asserts that this places him within the top six percent of reviewers in his field. We note that one of these researchers conducted 29 reviews for the *Journal of Bone and Mineral Research* with only one review for *Kidney International*, while Publons classified the majority of the other researcher's work in the field of kidney transplantation, rather than nephrology. As the majority of these reviews are in fields other than the Petitioner's, he has not demonstrated that these comparisons accurately reflect acclaim due to his work.

We also note that this document indicates that its statistics are based on self-reported information, rather than derived from an impartial source. The record does not establish how Publons derives its

rankings or how its statistics relate to field as a whole. Thus, the record does not provide enough details to substantiate the Petitioner's claims. We also note, as did the Director, that the Petitioner's reviews appear to have occurred in 2017, rather than over a period of time demonstrative of sustained acclaim.

With respect to contributions, while we noted the positive evidence of the Petitioner's research in the field and the influence it has had on other researchers, as discussed above, at issue here is whether he has received sustained national or international acclaim based on those contributions, whether he is one of the small percentage at the very top of the field of endeavor, and whether his achievements have been recognized in the field through extensive documentation. See section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2)-(3). We note that the record contains recommendation letters from five experts in the field of nephrology, two of whom have cited to the Petitioner's work. These researchers discuss the impacts his research has had on others in understanding how injury occurs to a type of kidney cells known as podocytes and the role this plays in kidney disease. For example, [REDACTED] a senior research fellow for the [REDACTED] states that "podocyte injury and loss are central to damage to renal cells in chronic kidney disease" and that the Petitioner's research is helping to clarify this molecular pathway and provide greater understanding for how kidney disease progresses. While the letters speak positively of the Petitioner and the value of his work, they do not indicate he is of the small percentage at the very top of his field.

The record contains documentation from Google Scholar summarizing his publication and citation history, which the Petitioner asserts is indicative of sustained acclaim. However, this includes computer-generated translations of Google Scholar documents that were originally in Chinese, but these do not contain complete translations. We note that certain sections of these documents remain in the original foreign language and contain a certification indicating that the Petitioner has translated these portions, but this does not reflect that the rest of the document is completely translated. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the record does not contain a properly certified and complete English language translation of these documents, we cannot meaningfully determine whether the computer-generated translated material is accurate and thus supports these claims.

Even if we were to accept the Google Scholar documentation, the record contains inconsistent information regarding his citations. We note that four reference letters written in October 2017 which indicate that his work has received more than 220 citations, despite the Petitioner claiming over 360 citations. It is unclear why these letters would have such different citation numbers from the Google Scholar documents. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).¹

¹ We note that the Director raised a concern about the citation numbers indicated in the Google Scholar documents that differed from the Petitioner's claim that 340 authors cited his work since 2012. Although the record lacks an accurate

The Petitioner also references a graph in the record of his citation history and publication productivity compared to other researchers in his field since 1993 and claims that this puts him among the top five percent for citations and the top one percent for publication productivity. This graph states the data is from Microsoft Research, but it is unclear who compiled this report and where the data in the graph originated. Without evidence corroborating the data in the graphs, they do not support the Petitioner's assertions regarding his acclaim. Accordingly, in addition to the translation issue discussed above, the record is unclear on whether his citation history demonstrates sufficient acclaim for this classification. While we note that the record contains favorable recommendation letters praising the Petitioner and his work in the field, this evidence does not establish that he has sustained national or international acclaim.

As to scholarly articles, the Petitioner's citation history or other evidence of the influence of his articles can also be an indicator to determine the impact and recognition that his work has had on the field and whether such influence has been sustained. As stated above, the record does not contain sufficient evidence establishing his citation history. The Director noted that he hadn't published any scholarly work since 2010. On appeal, he submits short summaries of two of his articles from 2013 and 2015 that he states were published in conjunction with the annual meetings of the American Society of Nephrology. He also submits a scholarly article he published by the American Physiological Society in 2017. This establishes his continued work in the field, but the record does not contain evidence of the level of acclaim he received from these publications. In addition, the record does not contain evidence regarding whether he presented at the annual meetings of the American Society of Nephrology. Therefore, the record does not demonstrate that the Petitioner's work has garnered sustained national or international acclaim in the field. *See* 8 C.F.R. § 204.5(h)(2)-(3).

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r. 1994). Here, the Petitioner has not shown that the significance of his scholarly accomplishments is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and that he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

translation of these Google Scholar documents, we note the Petitioner's assertion that the disparity between these numbers is due to the fact that many co-authors of an article would be acknowledged as citing an individual's work but counted only as one citation.

Matter of G-R-

For the foregoing reasons, the Petitioner has not shown that she qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of G-R-*, ID# 1681224 (AAO Nov. 19, 2018)