



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

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

In Re: 2551623

Date: NOV. 13, 2019

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, an interventional cardiologist seeks classification as an alien 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 Texas Service Center denied the petition, concluding that the record did not establish that Petitioner met at least three of the ten initial evidentiary criteria, of which he must meet at least three.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) 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 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 he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual’s occupation.

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).

II. ANALYSIS

The Petitioner, a physician specializing in cardiology, seeks classification as an individual of extraordinary ability in the sciences. He received his bachelor of medicine and bachelor of surgery (M.B.B.S.) at [redacted] Medical College, in India and completed three fellowships in cardiology specialties in the United States. At the time of filing, he had accepted a position as an interventional cardiologist [redacted] in Texas.

A. Evidentiary Criteria

Because the Petitioner has not indicated or 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). The Director found that the Petitioner met only two of the initial evidentiary criteria, judging the work of others in his field and authorship of scholarly articles. *See* 8 C.F.R. §§ 204.5(h)(3)(iv) and (vi). The Petitioner’s documentary evidence indicates that he has peer-reviewed manuscripts for several medical journals including *Open Journal of Clinical and Medical Case Reports*, *Journal of Geriatric Cardiology*, and *Journal of Interventional Cardiology*, and served on the editorial board of *Clinical Case Reports*.

In addition, the record contains evidence that the Petitioner has authored scholarly articles published in journals including *The American Journal of the Medical Sciences*, *American Journal of Cardiology*, and *Echocardiography*. Accordingly, we agree with the Director that the Petitioner fulfilled the requirements of the judging and scholarly articles criteria. On appeal, the Petitioner maintains that he also satisfies the requirements of the criteria relating to membership in associations that require outstanding achievements of their members, and original contributions of major significance in his field. We will analyze the evidence submitted under both of these criteria below.

Evidence of the individual’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as

judged by recognized national or international experts in their disciplines or fields. 8
C.F.R. § 204.5(h)(3)(ii).

The Petitioner is a Fellow member in both the American College of Cardiology (ACC) and the Society for Cardiovascular Angiography and Interventions (SCAI), and he maintains that both of these memberships meet this criterion. In order to satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.¹

With respect to the ACC, the Petitioner submitted evidence of his membership as well as: (1) the association's bylaws; (2) a supporting letter from [redacted] Member Strategy Associate; and (3) information regarding the "Fellow" member designation from the association's website.

According to the ACC's bylaws, a U.S.-based or Canada-based applicant seeking fellow membership is required to have initial certification by a primary specialty board such as internal medicine and an applicable subspecialty board such as cardiovascular disease. The Petitioner was board-certified in internal medicine and in at least one cardiology subspecialty when granted his Fellow membership in ACC in 2015, and therefore met this requirement through such board-certification. The ACC bylaws further indicate that "[l]acking initial board certification, the candidate is expected to have made important scientific contributions to a cardiovascular field." (Emphasis added.). In addition, "the candidate shall provide evidence of having attained peer recognition as practicing cardiovascular specialist or as a scientist." Based on how this provision is structured, it appears that both the "important scientific contributions" and peer recognition requirements apply to those candidates who lack initial board certification.

Therefore, based on the by-laws, the Petitioner's board certifications in internal medicine and cardiology subspecialties alone were sufficient to qualify him as a candidate for Fellow membership in the ACC. On appeal, the Petitioner asserts that the ACC, based on the membership conditions stated in the bylaws, considers an applicant's appropriate board certifications to be "on par with general evidence of important scientific contributions to a cardiovascular field" and deems board certifications to be "compelling evidence of important contributions to the field." However, there is no supporting evidence indicating that board certification in a medical subspecialty is an "outstanding achievement" in the field in and of itself. Rather, such board certifications are based on completion of fellowships and board examinations. The requirements for board-certified physician Fellow candidates are different from those of Fellow candidates with other professional backgrounds, but that does not lead to a conclusion that ACC considers them to be equivalent or that it requires supporting evidence of outstanding achievements from all Fellow candidates.

In her letter written on behalf of the ACC, [redacted] states that "the distinction of being a Fellow . . . is reserved for those specialists who have shown that they have made outstanding contributions to

¹ 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 6* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>. (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate, which requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual's distinguished achievements in original research).

the field of cardiology,” and notes that “[o]ne of the major pieces of evidence used to judge this are letters of reference from at least two of an applicant’s peers in cardiology that attest to the applicant’s outstanding credentials and achievements in the field.” In addition, she states that “the selection of fellows is entrusted to a board of experts, each of whom is an internationally recognized cardiologist in his or her own right.” We note, however, that while the ACC’s by-laws refer to a Credentialing Committee and a Membership Committee, they do not state the process by which Fellow members are selected. In addition, as discussed above, the bylaws do not clearly require board-certified physician candidates to submit peer letters of reference.

Finally, the Petitioner submitted a screenshot of a page titled “The Fellow of the American College of Cardiology (FACC) Designation” from the ACC’s website. The submitted page states that election to fellowship is by application, is “determined by committee,” is “based on outstanding credentials, achievements and community contributions,” and supported by evidence of achievement in the form of letters from an applicant’s peers.

The Director determined that the information provided in [redacted]’ letter and the ACC website was not clearly consistent with the information contained in the ACC’s bylaws with respect to the requirements for Fellow membership. The Petitioner maintains that because all of the information provided came directly from the ACC, it cannot be inconsistent, and he notes that all three sources of information refer to the importance of peer recognition for achievements. The Petitioner maintains that the website information and [redacted]’ letter are complementary to the bylaws and that, together, the evidence fully details the requirements for membership and his eligibility under this criterion.

While we do not find that the Petitioner submitted inconsistent information, we do find that the information submitted seems to present an incomplete picture of the ways in which one may qualify for candidacy as an ACC Fellow. As noted, the bylaws indicate that ACC has different membership requirements for Fellow membership depending, in part, on an applicant’s professional background. A U.S.-based practicing physician who is board-certified in a cardiology specialty clearly meets the stated membership requirements based on his or her board certifications. A U.S.-based applicant who is not board-certified, which we assume may include scientists and physicians primarily engaged in research, must satisfy different requirements that include evidence of “important scientific contributions” and peer recognition.

We note that the specific requirements for each type of applicant are expressly stated on the ACC’s website, which, as noted, the Petitioner relied upon in asserting that he meets this criterion. *See* “Become an FACC,” <https://www.acc.org/membership/join-us/facc> (accessed on Nov. 13, 2019). According to the website, for applicants who are Board-Certified physicians in the United States and Canada, “[e]lection to Fellowship is based on training and specialty board certification in cardiology.” To apply, applicants, must “have completed cardiovascular training,” “have a full-time academic and/or hospital appointment,” and “dedicate at least 75% of their professional activities to the cardiovascular field.” These applicants are required to provide two signed sponsorship forms and evidence of their academic and professional credentials. The referenced “sponsorship form” requires a current Fellow member of the ACC to complete the applicant’s name and provide their own name and signature, stating that they recommend the applicant for membership and that the applicant’s “interest in cardiovascular medicine, combined with proven ability, makes them an excellent candidate

for Fellowship.” There is no mention of significant, important or outstanding achievements, and the person signing the form is not required to provide a narrative regarding the candidate they are sponsoring. Rather, the evidence indicates that, for U.S.-based physicians, a Fellow membership in the ACC recognizes their board certification in a cardiology subspecialty rather than “outstanding achievements” as judged by nationally or internationally recognized experts in the field. In addition, the application requirements stated on the ACC website are consistent with the requirements for Fellow membership applicable to board-certified physicians, as stated in the ACC’s bylaws.

Also, the record does not include sufficient information regarding the nature of the review process that occurs after an application for Fellow membership in the ACC is received. While [redacted] stated that “selection of fellows is entrusted to a board of experts, each of whom is an internationally recognized cardiologist,” this information is not corroborated in the organization’s bylaws or other supporting evidence.

With respect to his Fellow membership in the SCAI, the Petitioner submitted the SCAI bylaws and a letter from [redacted] the SCAI’s Manager, Membership and Database. The SCAI bylaws state that SCAI “shall have the same classes of members with the same qualifications as those of the Society for Cardiovascular Angiography and Interventions Foundation” (SCAIF). The Petitioner has now provided the SCAIF bylaws on appeal.

The SCAIF bylaws provide that membership “shall be based upon qualifications of leadership, experience, training and ethical standards in the field of cardiac and/or endovascular angiography and/or intervention.” They further indicate that applications for membership are reviewed by the credentials committee, which submits names of candidates to the Fellows of the society. The bylaws state that members shall be elected by majority vote of a quorum of Trustees of the society.”

The SCAIF bylaws also describe the required qualifications for Fellows:

Fellows of the Society shall be physicians or scientists involved in the area of cardiac and/or endovascular angiography and/or intervention and shall meet such standards and qualifications as may be determined from time to time by the Board of Trustees as recommended by the Membership Committee, the Credentials Committee and/or the Executive Committee.

The bylaws are vague and do not support a finding that a Fellow membership in the SCAI requires an individual to have outstanding achievements in the field as judged by recognized national or international experts. The bylaws do mention that a higher tier of membership, “Master Interventionist,” may be given to fellows “who are recognized by peers as having demonstrated excellence in the field over a career, manifested by a commitment to the highest levels of clinical care, innovation, publication, teaching, and service to the Society.”

The letter from [redacted] indicates that the FSCAI designation indicates that a physician “is an expert in the field with years of education and training”; has “extensive practice-based experience”; is aware of the latest technologies and practices” as demonstrated by a commitment to continuous training and education,” and “is part of an international effort leading the fight against cardiovascular disease.” She also states that the SCAI’s credentials committee that reviews membership applications

is a group “recognized by their peers . . . for their experience in interventional cardiology.” Finally, [redacted] states that “applicants are evaluated on a number of criteria including board certification, the number of procedures performed, evidence of academic achievement, and letters of recommendation from current FSCAI members.”

Neither the bylaws nor [redacted]’s letter clearly state the eligibility requirements for Fellow membership in the SCAI and therefore the evidence does not establish such membership requires outstanding achievements in the field as judged by recognized national or international experts.

For the foregoing reasons, we agree with the Director’s determination³ that the Petitioner has not met this criterion.

Evidence of the individual’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).

In order to fulfill the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field.² For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

Although the Petitioner provided evidence reflecting the novelty of his research through recommendation letters praising him for his original contributions, the authors do not provide specific examples of contributions that are indicative of major significance.³ Each letter describes an area of the Petitioner’s research and highlights one or two other articles that cited to his work in the same area. In an independent advisory opinion, [redacted] of [redacted] Medical Center, discussed the Petitioner’s study of the overlapping occurrence of myocardial infarction and thromboembolism in the post-partum period, noting that the Petitioner’s “combined research and literature review isolated specific risk factors” for the co-occurrence of these conditions, “thereby granting the cardiology field new insight regarding these conditions.” [redacted] also states that “the research and knowledge he has contributed have been of the highest caliber.”

[redacted] assistant professor of cardiology imaging at [redacted] University, also provided an independent advisory opinion letter, in which he stated that the Petitioner has produced “novel and thorough research” on a condition called [redacted] which was “not previously understood by the cardiology community.” [redacted] explained that the Petitioner “ultimately drew new conclusions regarding the genetic risk factors that predispose an individual to [redacted] to two other diseases and “proposed that an autosomal dominant gene mutation accounted for the development of all three conditions.” [redacted] concluded that “his new understanding of the pathologies of these diseases is a great advancement to the field due to the diseases’ severe consequences.” He also noted two other papers that have cited

² 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 8-9* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (finding that although funded and published work may be “original,” this fact alone is not sufficient to establish that the work is of major significance).

³ Although we do not discuss every letter submitted, we have reviewed and considered each one.

the Petitioner's published article in this research area, observing that such citations demonstrate that his research "is worthy of being used as a basis for future research." A letter from [redacted] [redacted] also discusses the Petitioner's research in this area, and she notes that she relied on the Petitioner's "revolutionary 2010 article [redacted] [redacted]" to support part of her own research into a condition known as [redacted]. She states that she specifically cited to the Petitioner's research to support her argument for monitoring [redacted] patients for the early onset of arrhythmias. [redacted] provides two examples of other research groups that have cited to the Petitioner's studies and asserts that his "scientific studies have significantly furthered the work of other cardiology researchers."

[redacted] a former colleague of the Petitioner's at [redacted] University School of Medicine, indicates that the Petitioner's research "has produced new information regarding different manifestations of cardiovascular disease, as well as on the diagnostic and therapeutic techniques currently used to assess them." He specifically discusses the Petitioner's research on [redacted] which was published in the journal *Echocardiography*. [redacted] states that "through his strategic research and subsequent offering of parameters for the optimization of [redacted] [redacted] [the Petitioner] has taken decisive strides toward improving the cardiology field and ensuring the health of the public." [redacted] also noted two subsequent articles that cited to the Petitioner's article, stating that his research has "served as a foundation component of other independent research, underscoring its practical utility."

[redacted] co-director of [redacted] Medical Group's Division of Cardiology, discussed the Petitioner's research into the use of [redacted] coronary intervention to treat nonagenarian patients, noting that his study revealed that this treatment "is neither too aggressive nor too costly" for elderly patients, and that age alone should not serve as a contraindication for this treatment of narrowed arteries. [redacted] states that "the novelty and importance" of the Petitioner's research "has resulted in his peers' extensive citation to it," and establishes his influence in the field.

The letters considered above primarily contain attestations of the novelty and utility of the Petitioner's research studies without providing specific examples of contributions that rise to a level consistent with major significance. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.⁴ Letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁵ USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). The authors' assertions in the above-referenced letters do not explain how the Petitioner's research findings have been widely implemented or relied upon by others in the field. Without additional detail explaining his accomplishments relating to new or innovative techniques or findings, the letters do not establish that the Petitioner's work has had a demonstrable impact on the field as a whole commensurate with a contribution of major significance.

On appeal, the Petitioner emphasizes that, in addition to the referenced letters, he provided a variety of other documentary evidence demonstrating the major significance of his original contributions to

⁴ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

⁵ *Id.* at 9.

the field of cardiology. Specifically, the Petitioner notes that he provided: his overall citation record, as recorded by Google Scholar; copies of articles that include what he considers to be “notable citations” to his work; and evidence of selected international articles that cite to his published work, including evidence that his work was cited by researchers from 13 countries on four continents.

A review of the submitted articles that cite to the Petitioner’s research does not show the significance of his contributions to the overall field beyond the authors who cited to his work. For instance, the Petitioner provided an article entitled, [REDACTED]

[REDACTED] (*European Heart Journal*), in which the authors cited to his 2010 article in the *American Journal of Medical Sciences*.⁶ However, the article does not distinguish or highlight the Petitioner’s written work from that of the other 19 cited papers, and does not support the Petitioner’s claim that the submitted examples of citations “illustrate that many of [the Petitioner’s] fellow researchers have directly acknowledged his work to be majorly significant in the field of cardiology.” This evidence confirms that others, in the United States and abroad, were able to build upon the Petitioner’s work and apply it to their own research. But it does not show that the impact of his work on the overall field of cardiology rises to the level of an original contribution of major significance. The fact that the Petitioner has published articles that other researchers have referenced is not, by itself, indicative of a contribution of major significance. Publications are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of “major significance.”

We acknowledge, however, that a petitioner may present evidence that his articles “have provoked widespread commentary or received notice from others working in the field, or entries (particularly a goodly number) in a citation index which cite [his] work as authoritative in the field, may be probative of the significance of [his] contributions to the field of endeavor.” USCIS Policy Memorandum PM 602-0005.1, *supra*, 8.

On appeal, the Petitioner submits a table and graphs (which appear to be self-compiled using Microsoft Research) that place his overall “citation impact” in the top 6.7% researchers in the field, and in the top 1.59% of researchers in the field in terms of productivity. The Petitioner indicates that he limited the search for years of publication (2010 through 2018) and for seven specific research areas.⁷ We note that the “citation impact” percentile appears to have been derived from the total number of citations to his entire body of work published between 2010 and 2018. The “paper percentile” appears to have been derived from the total number of papers he published in the seven selected research areas during this time period.

However, figures that summarize citations to the Petitioner’s entire body of published work do not demonstrate that any specific work of his is so widely cited and relied upon that it is considered to have made a major impact in the field of cardiology. Comparison of the Petitioner’s cumulative citations to others in the field is often more appropriate in determining whether the record shows sustained national or international acclaim and demonstrates that he is among the small percentage at the very top of the field of endeavor in a final merits determination.

⁶ Although we discuss a sample article, we have reviewed and considered each one.

⁷ The document indicates that the areas of research included in the Petitioner’s search included heart failure, pulmonary hypertension, cardiomyopathy, impedance cardiography, aortic valve replacement, intensive care medicine, and surgery.

Once again, the issue for this criterion is whether the Petitioner has made original contributions of major significance in the field rather than where his overall citation rates rank among others in his field. Here, a more appropriate analysis, for example, would be to compare the Petitioner's citations for individual articles to other similarly, highly cited articles that the field views as having been of major significance, as well as factoring in other corroborating evidence. The Petitioner has not demonstrated, as he asserts, that his citation numbers and percentiles and his overall number of publications, resulted in an original contribution of major significance in the field. For example, although he indicates that he was in the top 2% of 4.5 million authors in terms of the number of papers he co-authored between 2010 and 2018, approximately half of his co-authored publications had no citations based on the Google Scholar data he provided.

Although the Petitioner claims that his work "has been instrumental for the realization of many notable developments in cardiology around the world" and "recognized as uniquely impactful by experts throughout the field," these claims are not adequately supported by the submitted recommendation letters or citation evidence. Considered together, the evidence consisting of the citations to the Petitioner's published findings and the reference letters from his fellow cardiologists establishes that the Petitioner has been a productive researcher, and that his published data and findings have been relied upon by others in their own research. It does not demonstrate that the Petitioner has made an original contribution of major significance in the field of cardiology. Therefore, he has not met this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. 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 acclaim and recognition required for the classification sought.

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 work 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 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).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.