



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

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

In Re: 7376481

Date: APR. 1, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, an executive accountant and auditor, 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 Nebraska Service Center denied the petition, concluding that although the Petitioner satisfied three of the initial evidentiary criteria, as required, he did not show sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor.

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).

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 founder, chairman, president, chief accountant, and legal representative of [REDACTED] a member of [REDACTED] Group.

### 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 three of the evidentiary criteria relating to judging at 8 C.F.R. § 204.5(h)(3)(iv), scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi), and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). The record reflects that the Petitioner served as a judge of the work of others, authored scholarly articles in professional publications, and performed in a leading or critical role.

Accordingly, we agree with the Director that the Petitioner fulfilled three criteria. Because the Petitioner has shown that he satisfies three criteria, we will evaluate the totality of the evidence in the context of the final merits determination below.<sup>1</sup>

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<sup>1</sup> 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* 13 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (providing that objectively meeting the regulatory criteria in part one alone does not establish that an individual meets the requirements for classification as an individual of extraordinary ability under section 203(b)(1)(A) of the Act).

## B. Final Merits Determination

As the Petitioner submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim,<sup>2</sup> 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.<sup>3</sup> In this matter, we determine that the Petitioner has not shown his eligibility.

The Petitioner submitted documentary evidence reflecting his educational background, training courses, and credentials. For instance, he received a junior college graduation certificate in accounting education from [redacted] University of Finance and Economics in 1995. Moreover, he provided documentation of additional training courses, such as an enterprise management consulting business training class by the Chinese Institute of Certified Public Accountants and the National Institute in 1995 and a training class for an independent director of a listed company by the Securities Association of China and School of Management of [redacted] University in 2004. Further, he offered evidence of his professional qualifications and credentials, such as senior accountant in 2004, judicial appraiser in 2009, and certified public accountant.<sup>4</sup> Currently, he serves as chairman, president, chief accountant, and legal representative of his own business, [redacted].

As mentioned above, the Petitioner judged others within his field, authored scholarly articles, and performed in a leading role. The record, however, does not demonstrate that his achievements reflect a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

Relating to the Petitioner's service as a judge of the work of others, an evaluation of the significance of his experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. See *Kazarian*, 596 F. 3d at 1121-22.<sup>5</sup> The record reflects that the Petitioner provided evidence reflecting his participation in a 2010 judicial examination regarding illegal activity of a real estate company, a 2013 audit of a grain company, and a 2015 audit of a credit union. Furthermore, the record shows that the Petitioner served as the chief editor for the book, [redacted] (2005) and deputy editor for the book, [redacted] (2018). However, the Petitioner did not establish that these auditing and editing instances place him among the small percentage at the very top of his field. See 8 C.F.R. § 204.5(h)(2). He did

<sup>2</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 14 (stating that such acclaim must be maintained and providing *Black's Law Dictionary's* definition of "sustain" as to support or maintain, especially over a long period of time, and to persist in making an effort over a long period of time).

<sup>3</sup> *Id.* at 4 (instructing that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the required high level of expertise of the immigrant classification).

<sup>4</sup> Date omitted in documentation relating to certified public accountant accreditation.

<sup>5</sup> See also USCIS Policy Memorandum PM 602-0005.1, *supra*, at 13 (stating that an individual's participation should be evaluated to determine whether it was indicative of being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

not show, for example, how his auditing and editing experiences compare to others at the very top of the field.

In addition, the Petitioner did not demonstrate that his three auditing events, with his most recent occurring approximately 4 years ago, and his two editing occasions, happening 13 years apart, contribute to a finding that he has a “career of acclaimed work in the field” as contemplated by Congress or indicative of the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. The Petitioner did not establish, for instance, that he garnered wide attention from the field based on his work as an auditor and editor.

In addition, the Petitioner submitted evidence of his appointments to the Chinese People’s Political Consultative Conference in 2007, the Most Valuable Investment Area in Central China in 2010, and the [redacted] Senior Accountant Review in 2010. However, the Petitioner did not demonstrate that these appointments resulted in the judging of others. For instance, the Petitioner did not provide examples or other detailed information showing whom or what he judged, reviewed, or audited. Further, he did not establish that his associations with these organizations, approximately ten years ago, garnered sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act.

Moreover, fulfilling the job requirements of an auditor, participating as an editor, or serving on a judging committee does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of his field. Without evidence that sets him apart from others in his field, such as evidence that he has a consistent history of completing a substantial number of high profile audits, served in editorial positions for distinguished journals or publications, or chaired technical committees for reputable conferences, the Petitioner has not shown that his auditing experience places him among “that small percentage who [has] risen to the very top of the field of endeavor.” *See* 8 C.F.R. § 204.5(h)(2).

Likewise, authorship and publication do not automatically place one at the top of the field.<sup>6</sup> The record reflects that the Petitioner assisted in authoring three books. Specifically, the Petitioner authored a chapter for [redacted] (2005), compiled [redacted] (2011), and authored a section in a chapter for [redacted] (2018). In addition, the Petitioner authored two articles in 2011 (*Guide to Business and Entrepreneur World*) and two articles in 2018 (*China Journal of Commerce* and *China International Business*). However, the Petitioner did not demonstrate that this sporadic publication record is consistent with having a “career of acclaimed work” and sustaining national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act.

In addition, the commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provide that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here, the Petitioner did not establish that his authorships reflect being among the small percentage at

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<sup>6</sup> *See also* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 13 (providing that publications should be evaluated to determine whether they were indicative of being one of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

the very top of his field. *See* 8 C.F.R. § 204.5(h)(2). The Petitioner, for instance, did not show the significance of his involvement with three books and authorship of four articles or how his publications compare to others who are viewed to be at the very top of the field.

Moreover, the citation history or other evidence of the influence of his written work can be an indicator to determine the impact and recognition that his publications have had on the field and whether such influence has been sustained. For example, numerous independent citations for an article authored by the Petitioner may provide solid evidence that his work has been recognized and that other accountants and auditors have been influenced by his work. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian*, 596 F. 3d at 1122.

As it relates to his books, the Petitioner provided a letter from [redacted] who broadly claimed that “[m]any public and private institutions have adopted [the Petitioner’s] ideas, and his books have become part of university core curriculums.” However, [redacted] did not elaborate or offer specific, detailed information supporting his assertions. The Petitioner submitted evidence showing that [redacted] [redacted] has been utilized at [redacted] University of Economics and Law. Here, the Petitioner did not establish that the usage of his book, in which he authored one chapter, at a single university rises to the level of acclaim required for this very high restrictive classification. In addition, although the Petitioner presented background information relating to the publication companies of the other two books, he did not show any attention he garnered from compiling the material and authoring a section of a chapter.

Regarding his articles, the Petitioner submitted evidence showing that his *China Journal of Commerce* article has been downloaded 115 times and his *Guide to Business* article has been downloaded 244 times and cited twice.<sup>7</sup> In addition, the Petitioner did not provide any evidence relating to the downloads or citations of his other two articles. While the downloads and citations, both individually and collectively, show that the field has noticed his work, he has not established that such downloads and citations sufficiently demonstrate a level of interest in the field commensurate with sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. Moreover, the Petitioner has not shown that the downloads or citations to his work represent attention at a level consistent with being among small percentage at the very top of his field. *See* 8 C.F.R. § 204.5(h)(2).

Furthermore, as it pertains to [redacted] the Petitioner did not establish that his role at a single organization represents sustained national or international acclaim or a “career of acclaimed work in the field.” *See* section 203(b)(1)(A) of the Act and H.R. Rep. No. at 59. Moreover, while the Petitioner submitted reference letters, they did not show how his role resulted in widespread acclaim from his field, that he drew significant attention from the greater field, or that overall field considers him to be at the very top of the field of endeavor. Further, his reference letters made broad assertions without providing specific, detailed information establishing receipt of sustained national or international acclaim.

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<sup>7</sup> The Petitioner also submitted evidence showing that his *Guide to Business* article “is part of collection of [redacted] Library and [redacted] University Library.” However, the Petitioner did not show the relevance or significance of the article’s inclusion or how such evidence demonstrates that he has sustained national or international acclaim or places him among that small percentage at the very top of his field.

For instance, [redacted] discussed the Petitioner's involvement in adjudicating cases of misappropriated funds, and [redacted] indicated the Petitioner's auditing and accounting projects. However, neither letter explained any attention he received from the overall field based on his role with [redacted]. Although the Petitioner performed in the expected role of founder, chairman, president, chief accountant, and legal representative of his own company, he did not show that he garnered national or international acclaim or how his role placed him among that small percentage at the very top of the field. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

Beyond the three criteria that the Petitioner satisfied, we consider additional documentation in the record in order to determine whether the totality of the evidence demonstrates eligibility. Here, for the reasons discussed below, we find that the evidence neither fulfills the requirements of any further evidentiary criteria, nor contributes to an overall finding that the Petitioner has sustained national or international acclaim and is among the small percentage of the top of his field.

Regarding published material, the Petitioner referenced four articles from 2005, 2012, 2013, and 2014. However, the Petitioner did not demonstrate that four published pieces, with the last occurring approximately five years ago, are consistent with the sustained national or international acclaim necessary for this highly restrictive classification. *See* section 203(b)(1)(A) of the Act. Further, the Petitioner did not show that his overall press coverage reflects a level of success consistent with being among "that small percentage who [has] risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2). Moreover, the Petitioner did not establish that the limited media reporting reflects a "career of acclaimed work in the field" or a "very high standard . . . to present more extensive documentation than that required." *See* H.R. Rep. No. at 59 and 56 Fed. Reg. at 30704.

As indicated above, the Petitioner provided recommended letters that summarized his work and contributions. The letters, however, do not contain sufficient information and explanation to show that the Petitioner is viewed by the overall field, rather than by a solicited few, as being among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). Further, the Petitioner did not establish that the Petitioner has made impactful or influential contributions in the greater field reflecting a "career of acclaimed work in the field," garnering the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. For instance [redacted] claimed that the Petitioner's "contribution enhanced the right of speech of certified public accountants in public affairs, greatly promoting the sound development and improvement of the CPA industry." Here, [redacted] did not explain how the Petitioner's work in [redacted] Province, China impacted the greater field in the CPA industry. Moreover, although the Petitioner referenced the media reports discussed above, as well as proposals, project completions, event participations, and awards, they confirm his contributions without showing how they rise to a level of major significance in the field and represent an individual who has garnered "sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation." *See* section 203(b)(1)(A) of the Act and 56 Fed. Reg. at 30704.

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought. Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. Even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *Matter of Price*, 20 I&N Dec. 953, 954

(Assoc. Comm'r 1994). While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, we find the record insufficient to demonstrate that he has sustained national or international acclaim and is among the small percentage at the top of his field. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(2).

### III. CONCLUSION

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.