



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

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

In Re: 8523716

Date: JULY 23, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a postdoctoral research associate, 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 the Petitioner had satisfied only two of the initial evidentiary criteria, of which she 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).

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 indicates employment as a postdoctoral research associate in the department of civil and environmental engineering at the University of [REDACTED]. Because the Petitioner has not claimed or established that she has received a major, internationally recognized award, she 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 determined that the Petitioner fulfilled two of the initial evidentiary criteria, judging at 8 C.F.R. § 204.5(h)(3)(iv) and scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi). The record reflects that the Petitioner reviewed papers for journals. In addition, she authored scholarly articles in professional publications. Accordingly, we agree with the Director that the Petitioner fulfilled the judging and scholarly articles criteria.

On appeal, the Petitioner asserts that she meets an additional criterion, discussed below. After reviewing all of the evidence in the record, we conclude that the record does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

Evidence of the alien'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).

The Petitioner argues that she meets this criterion based on her journal reviews, publications in top journals, paper presentations at conferences, citations of her work by others, and recommendation letters. In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has she made original contributions but that they have been of major significance in the field.¹ 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.

As previously discussed, we have already considered the Petitioner's manuscript reviews under the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). Moreover, although the Petitioner initially provided

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 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).

emails requesting her to review papers for journals, she demonstrated that she conducted only two of the reviews prior to the filing of her petition.² In addition, the Petitioner did not establish how performing two manuscript reviews for journals constitutes an original contribution of major significance in the field. Here, the Petitioner did not show, for example, how she impacted or influenced the field through her paper reviews beyond the individual journals.³

Further, the Petitioner argues that she has published in top journals and has presented at conferences. Again, we considered the Petitioner's publication history under the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi). Moreover, the Petitioner did not demonstrate that publication of articles in highly ranked journals or presentation of work at distinguished conferences automatically establishes original contributions of major significance. Moreover, a publication that bears a high ranking or impact factor reflects the publication's overall citation rate; it does not show an author's influence or the impact of research in the field or that every article published in a highly ranked journal automatically indicates a contribution of major significance. Publications and presentations are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance." See *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115. Here, the Petitioner did not establish that publication in a popular or highly ranked journal or presentation at a distinguished conference alone demonstrates a contribution of major significance in the field.

Moreover, as it relates to the citation of her work, the Petitioner initially submitted evidence from Google Scholar showing that six of her articles or conference papers received 45, 27, 10, 5, 4, and 1 citation(s), respectively. In response to the Director's RFE, the Petitioner provided updated figures from Google Scholar reflecting that seven of her articles or conference papers received 52, 34, 10, 7, 5, 4, and 2 citations, respectively. The Petitioner did not show whether the increased citations occurred in papers published after the filing of her petition. See 8 C.F.R. § 103.2(b)(1). Regardless, this criterion requires the Petitioner to establish that she has made original contributions of major significance in the field. Thus, the burden is on the Petitioner to not only identify her original contributions but to also explain why they are of major significance in the field. Generally, citations can serve as an indication that the field has taken interest in a petitioner's research or written work. However, the Petitioner has not sufficiently shown that her citations to her work are commensurate with contributions of major significance.⁴ Here, the Petitioner did not articulate the significance or relevance of the citations to her articles or conference papers. For example, she did not demonstrate that these citations are unusually high in her field or how they compare to other articles that the field views as having been majorly significant. Although her citations indicate the some in the field have referenced her work, the Petitioner did not establish that her citation numbers to her work rise to the level of major significance consistent with this regulatory criterion.⁵

² In response to the Director's request for evidence (RFE), the Petitioner provided four emails requesting her to perform manuscript reviews after the filing of her petition. The Petitioner must establish that eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. See 8 C.F.R. § 103.2(b)(1). Regardless, the Petitioner did not demonstrate that she actually conducted those reviews.

³ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9; see also *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

⁴ The Petitioner also did not demonstrate that any of her other articles or conference papers resulted in original contributions of major significance in the field.

⁵ See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9 (providing an example that peer-reviewed articles in

In addition, the record reflects that the Petitioner provided data from Clarivate Analytics comparing her citations per paper per year to the average of citations per paper per year. Comparing average citations to the Petitioner's citations, however, does not automatically establish majorly significant contributions in her field, nor did she show that all papers garnering citations above the average for the year qualify as majorly significant. Once again, the issue for this criterion is whether the Petitioner has made original contributions of major significance in the field rather than where her citations fall among the averages of others in her field. Here, a more appropriate analysis, for example, would be to compare the Petitioner's citations to other similarly, highly cited articles, as well as factoring in other corroborating evidence, in order to gauge the field's view of a contribution of major significance. The Petitioner has not demonstrated that her written work, using Clarivate Analytics methodology through average citation numbers, resulted in original contributions of major significance in the field.

Furthermore, the Petitioner initially offered samples of the first page of articles claiming that they cited to her work, but none of the pages reflected the citation or reference to any of her work. In response to the Director's RFE, the Petitioner provided portions of articles that cited to her work. A review of those excerpts, though, do not show the significance of the Petitioner's research in the overall field beyond the authors who cited to her work in those portions. In addition, the partial articles do not distinguish or highlight the Petitioner's work from the other cited papers. Moreover, the limited papers do not indicate that the Petitioner's work is authoritative or otherwise viewed as being majorly significant in the field. In the case here, the Petitioner has not shown that her published articles through citations rise to a level of major significance consistent with this regulatory criterion.

Moreover, the Petitioner presented screenshots from cee.illinois.edu and a press release from [redacted], Center for Water Research identically announcing that [redacted] the University [redacted] and [redacted] National Laboratory "recently received a grant to initiate their project, [redacted], which aims to more accurately predict extreme weather events and reduce impacts at the neighborhood level." However, the Petitioner did not establish that such minimal reporting or coverage indicates an original contributions of major significance in the field. Further, the evidence speculates on the possibility of having an impact at some point in the future, such as [redacted] will combine natural science, social science, data science and engineering to not only more accurately predict weather events . . . , but also assess vulnerabilities within neighborhoods," "researchers also *hope* to facilitate public discussion and better prepare community members for extreme weather events," "[t]he project *will* provide improved assessments of the likelihood of extreme weather impacts in neighborhoods across the city, which *can* be used to direct resources to help those most at risk," "the project *will* identify how [redacted] infrastructure . . . *can* be used by local communities to reduce their vulnerability to extreme weather," "[redacted] project team *will* use this information in conjunction with [redacted] records to learn how different levels of [redacted] interact with existing [redacted] infrastructure," "[a]ssessments of links between [redacted] *will* help to reduce health impacts of heat waves, and these new results *will* support [redacted] infrastructure recommendations to reduce extreme weather vulnerability in [redacted] communities," and "[w]hile the current project focuses on

scholarly journals that 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 the individual's work as authoritative in the field, may be probative of the significance of the person's contributions to the field of endeavor).

the [redacted] area, it has the *potential* to expand to cities across the globe.” (emphasis added). While the Petitioner’s work on the project may show promise, she did not demonstrate how her work already qualifies as a contribution of major significance in the field, rather than prospective, potential impacts. Here, the significant nature of the [redacted] project has yet to be determined.

Finally, the Petitioner submitted about a half dozen recommendation letters that generally recount her research and findings and indicate their publications in journals or presentation at conferences. Although they reflect the novelty of her work, they do not sufficiently articulate how her research and findings have been considered of such importance and how their *impact on the field* rises to the level of major significance required by this criterion. For instance, [redacted] indicted that the Petitioner’s “breakthrough research on the application of [redacted] theory to [redacted] and [redacted] forecasting has resulted in three journal articles,” and “[t]his cutting-edge research has important technological implications in developing real-time [redacted] measurements and reliable [redacted] forecasting under extreme [redacted] events.”⁶ Although [redacted] pointed out that her work resulted in a journal publication and opined about important technological implications, he did not further elaborate and explain the implications and how the field views them as important. Again, publication or presentation alone is not sufficient under 8 C.F.R. § 204.5(h)(3)(v). See *Kazarian v. USCIS*, 580 F.3d at 1036, *aff’d in part*, 596 F.3d at 1115.

Likewise, the Petitioner provided a letter from [redacted] who highlighted the Petitioner’s publications and presentations. For example, [redacted] stated the Petitioner’s “articles have been published in international peer-reviewed journals including: *Advances in Water Resources*, *Journal of [H]ydrology*, and *Journal of [H]ydrological [E]ngineering* which are high demanding journals in the field of hydrological sciences and [redacted]’ and she “also received the great honor, in addition to other invitations to give talks to the [redacted] Congress [redacted], American Geophysical Union meeting [redacted]), International Symposium on [redacted].” Here, [redacted] did not explain how the articles or presentations have somehow impacted or affected the field in a significant manner. Moreover, while [redacted] claimed that “the method and theory she developed has wide applications in [redacted] [redacted] as well [redacted] engineering,” he did not elaborate, identify the “wide” applications, and describe the impacts of her method and theory in the field.

In addition, similar to the [redacted] media reports discussed above, the letters speculate on the potential of her work, such as: the Petitioner’s “research *will* clearly benefit [redacted] and the United States as a whole” [redacted]), and “[t]he identified relationship *can* further be used to predict the complete profile of [redacted] at a monitored site with limited [redacted] samplings” and “this type of comparative study where feasibilities of multiple approaches that were well established to solve an important problem were analyzed and discussed in depth *will* likely get excellent citations in the *years to come* due to its value in the field” [redacted] (emphasis added). Although the letters opine on the possibility of the influence of the Petitioner’s research and work at some time in the future, they do not demonstrate how her work has already impacted, influenced, or affected the overall field in a significant nature.

⁶ Although we discuss a sampling of letters, we have reviewed and considered each one.

Here, the Petitioner's letters do not contain specific, detailed information explaining the unusual influence or high impact his research or work has had on the overall field.⁷ Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.⁸ On the other hand, 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.⁹ Moreover, 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).

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that she has made original contributions of major significance in the field.

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 her 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 she 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). Although the Petitioner has reviewed manuscripts, conducted research, and authored scholarly articles, the record does not contain sufficient evidence establishing that she is among the upper echelon in her field.

For the reasons discussed above, the Petitioner has not demonstrated her 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.

⁷ Although we discussed a sampling of letters, we have reviewed and considered each one.

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

⁹ *Id.* at 9. *See also Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).