



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

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

In Re: 18109021

Date: OCT. 8, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, a research scientist in the field of robotics, seeks classification as an individual 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 record did not establish that the Petitioner satisfied at least three of the ten initial evidentiary criteria for this classification, as required. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. *See* Section 291 of the Act, 8 U.S.C. § 1361, *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). 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 a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the 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).

## II. ANALYSIS

At the time of filing, the Petitioner was a doctoral student in computer science and engineering at the University of [REDACTED] where she was also employed as a research associate.<sup>1</sup> The Petitioner has a master of science in robotics from [REDACTED] University, a master of engineering in computer science from [REDACTED] and a bachelor's degree in computer science and mathematics from [REDACTED]. The record reflects that she is the founder and CEO of [REDACTED] a U.S. company which intends to develop and market an [REDACTED] reliant on robotics and artificial intelligence technologies.

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). The Director determined that the Petitioner met two of these criteria by providing evidence that she has participated as a judge of the work of others in her field and by authoring scholarly articles in professional publications. *See* 8 C.F.R. § 204.5(h)(3)(iv) and (vi). The record supports this determination, as the Petitioner has documented her service as a judge based on her peer review of manuscripts for scientific journals and conferences in her field. She has also published her scholarly work in a journal (*IEEE Robotics and Automation Letters*) and in international conferences in her field.

On appeal, the Petitioner asserts that she submitted sufficient evidence to establish that she has made original scientific contributions of major significance in her field and therefore meets the criterion at 8 C.F.R. § 204.5(h)(3)(v).<sup>2</sup> After reviewing all the evidence submitted, we conclude that the record does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

---

<sup>1</sup> The record reflects that the Petitioner received her Ph.D. from the University of [REDACTED] in August 2020.

<sup>2</sup> Although the Petitioner previously claimed to meet three additional evidentiary criteria, she does not contest the Director's determination that she did not satisfy the criteria related to lesser nationally and internationally recognized awards at 8 C.F.R. § 204.5(h)(3)(i), display of her work art artistic exhibitions and showcases at 8 C.F.R. § 204.5(h)(3)(vii), and performance in a leading or critical role for an organization or establishment that has a distinguished reputation at 8

*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).

This criterion calls for evidence of a petitioner's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. For example, a petitioner may show that their 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.

The Petitioner asserts that she meets this criterion based on her contribution of [redacted], incorporated into an autonomous [redacted] system called [redacted], which was developed at the University of [redacted] Robotics Lab. Specifically, the Petitioner explains that she contributed to [redacted]'s perception, motion planning, and manipulation components, which allow the [redacted]

[redacted] The Petitioner maintains that the significance of her contribution to the [redacted] project has been widely recognized in the field, as evidenced by her publication of two articles and two datasets related to the project, citations to and downloads of these publications and data, media attention received by the project, and letters from experts in her field. She asserts that this evidence, considered in its totality, is sufficient to establish the major significance of her scientific contribution.

The Petitioner asserts that the Director failed to consider evidence of "massive downloads" of two datasets related to the [redacted] project that are available on the [redacted] website. Specifically, she states that her team at University of [redacted] published two datasets: (1) "[redacted]" which has been downloaded 13,644 times; and (2) [redacted] which has been downloaded 37,730 times. The Petitioner explains that the datasets can be used by other researchers to understand how [redacted] so that they can recreate those actions with robots. She states that the only "logical reason" for her datasets to have over 50,000 downloads is because her "peers in this field have widely recognized her original findings and the importance of her original findings, which can . . . help them to do their own [research]."

The Petitioner states that the two datasets have achieved a "massive" number of downloads but the record does not contain comparative information regarding downloads for other datasets in the same field. Rather, she asserts that 50,000 is a large number without placing that number in context. Without supporting evidence to provide such context, she has not supported her claim that the total number of downloads establishes the major significance of the data she collected through her research on the [redacted] project.

Further, the total number of downloads for a given dataset does not provide insight into how many individual researchers have downloaded the Petitioner's data. For example, the [redacted] [redacted] has been downloaded over 13,000 times since being published on [redacted] in 2019. However, this dataset includes

---

C.F.R. § 204.5(h)(3)(viii). We consider these issues to be waived and will not further discuss these criteria. *See Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived).

nearly 2500 files and the total number of downloads represents the sum of downloads for each file; it does not indicate that 13,000 researchers have downloaded the complete dataset. The Petitioner provided download numbers for ten individual files within the dataset showing that they were each downloaded between 7 and 15 times. Given the total number of files (2493) and total number of downloads (13,644), the average number of downloads per file would fall between 5 and 6 downloads. The Petitioner's other dataset, published on [redacted] in 2018, includes 479 files that have been downloaded a total of 37,730 times, or an average of approximately 79 downloads per file.

In addition, a download count does not tell us whether or how the Petitioner's datasets have been used in subsequent research studies. If such downloads rarely result in citations, then the download count does not appear to correlate directly to the impact or influence of the Petitioner's research in the field. Only one of the two [redacted] datasets (the 2018 dataset titled [redacted] [redacted] is included on the Petitioner's Google Scholar profile. Although the Petitioner emphasizes that it has over 37,000 downloads, the record reflects that this dataset had been cited only three times, a number which appears to include self-citations by the Petitioner.

On appeal, the Petitioner focuses on the number of downloads and suggests that it would be unusual for a researcher to cite to a dataset such as those she published on [redacted]. She maintains that "[p]eople who downloaded them are scientific researchers in this specific field and they downloaded them not casually for fun, but seriously with the purpose for their research[]." At the same time, she states that the data contained in the datasets "is not in ordinary English words which is not practically cited as the normal citation." Her statements imply that researchers have downloaded and relied on her data for their own research without citing it. However, the information provided from [redacted] indicates that the website automatically generates a full citation for every uploaded dataset for use by researchers, to ensure that those who publish the datasets are credited for their work when others rely on it. The record does not adequately support the Petitioner's claims that the downloads of her dataset should be given greater evidentiary weight than citations to those datasets.

The Petitioner also emphasizes that she used the datasets discussed above to publish and present her research related to the [redacted] project. She provided evidence that her paper [redacted] was published in *IEEE Robotics and Automation Letters* in 2019, and that she presented [redacted] [redacted] at the 2019 International Symposium on Robotics Research (ISRR). This evidence verifies that the Petitioner has shared her research associated with the [redacted] system. Although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance. To satisfy this criterion, the Petitioner must demonstrate that the reaction from the field upon the dissemination of her work confirms that her research rises to the level of a "contribution of major significance" in the field. See 8 C.F.R. § 204.5(h)(3)(v).<sup>3</sup> Here, the Petitioner provided her Google Scholar profile indicating that the two articles referenced above had been cited 21 times and 5 times, respectively.

---

<sup>3</sup> See 6 USCIS Policy Manual F.2 appendix, <https://www.uscis.gov/policy-manual>) (stating that "[p]eer-reviewed presentations at academic symposia or peer-reviewed articles in 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 alien's work as authoritative in the field, may be probative of the significance of the alien's contributions to the field of endeavor).

Generally, citations can serve as an indication that the field has taken interest in a petitioner's published or presented work. However, the Petitioner has not demonstrated that the number of citations received by her published work associated with the [redacted] project is commensurate with a contribution of major significance. In fact, referring to the citations received by her article in *IEEE Robotics and Automation Letters*, she states on appeal that the number of citations it received, if considered alone, "is not impressive." She asserts that these citations should be considered along with evidence that the corresponding dataset published on [redacted] was downloaded over 13,000 times, emphasizing that the combination of the citations and downloads is "very convincing" evidence of the significance of her research contribution. However, as discussed above, the Petitioner has not established that her datasets related to the [redacted] project have been widely cited or that the downloads signify widespread notice or attention in her field commensurate with major significance. Although evidence related to the Petitioner's citations indicates that her research has received some attention from the field, she did not establish that the citations demonstrate that her work has been widely discussed or relied on by other researchers, that the work has been particularly influential or impactful, or that it is otherwise regarded as a contribution of major significance in her field.

The Petitioner also provided evidence that several media outlets reported on the University of [redacted]'s first demonstration of the [redacted] robot when the *IEEE Robotics and Automation* article was published in 2019. The Petitioner provided copies of online articles from *BBC*, *Reuters*, *Science Daily*, *GeekWire*, *Digital Trends*, *New Atlas*, *Fast Company*, and *Interesting Engineering*. An article about the [redacted] project was also featured on the website of the NIH's [redacted] [redacted] which provided project funding. The articles convey that there are approximately one million Americans with injuries or disabilities that prevent them from [redacted] and note that the team at University of [redacted] has [redacted] [redacted] as a first step in developing an [redacted] robot.

The articles describe the engineering challenges presented by the [redacted] project, describe how the research team approached those challenges, and explain how the [redacted] robot works. While the articles comment on the potential of the technology, the evidence does not indicate that the algorithms developed by the Petitioner and incorporated into the [redacted] or the [redacted] robot itself, have already had a major impact in the robotics field or have resulted in a technology that is already being used by the population it intends to serve.

For example, the *BBC* article reports that the [redacted] project's researchers [redacted] [redacted] The article published by *Fast Company* discusses several limitations of the robot and possible future improvements, noting that "the [University of [redacted] team has no immediate plans for commercialization." The *GeekWire* article refers to [redacted] as "an early-stage project" and reports that [redacted] Overall, the submitted media articles recognize the originality and potential of the research and two of them mention that [redacted] is more advanced than an existing [redacted] robot already on the market. However, they do not present [redacted] as a development that has already been shown to have a demonstrable impact in the field commensurate with a contribution of major significance.

The Petitioner has also submitted several expert opinion letters that discuss her contributions to the [redacted] project at University of [redacted]. Although the authors comment on the originality of this research and the publication and presentation of this work, they do not sufficiently articulate how the Petitioner's research and findings have already impacted on influenced the field in a significant way. [redacted] who runs the [redacted] Robotics Lab at University of [redacted] and served as the Petitioner's Ph.D. advisor, acknowledges her contributions to the [redacted] system, noting her critical role in the team's development of "a software stack for a mobile [redacted]". He states that the project "has received much attention . . . in the research community," but does not further elaborate on the influence or impact of the Petitioner's contributions.

Other letters comment on the potential future applications of the Petitioner's work without detailing how it has already impacted further research in the field or been widely implemented in the field. [redacted] a professor of computer science who previously served as the Petitioner's advisor at [redacted] summarizes her research and states that the [redacted] robot "has myriad practical applications in [redacted] and will help "millions of Americans in need of [redacted] services." [redacted], a mechanical engineering professor at [redacted] mentions the two datasets and two publications associated with the Petitioner's research, and states that her work on [redacted] and her expertise in [redacted] robotic systems has "unlimited potential applications in improving the lives of many disabled Americans, which certainly has substantial merit and national importance." [redacted] an electrical and computer engineering professor at [redacted] University, similarly discusses the Petitioner's published work related to the [redacted] project and notes its "importance to the [redacted] robotics field given its numerous applications which can be designed to improve the quality of life for millions of [redacted] individuals." Finally, [redacted] a professor at [redacted] University, states that the Petitioner has made "invaluable breakthroughs" that will "help millions of Americans who require [redacted] services."

While several of the letters emphasize the "substantial merit and national importance" of the field of [redacted] robotics, they do not explain with specificity how the Petitioner's individual contributions to this field rise to the level of major significance. The submitted letters emphasize the potential of the Petitioner's research, the impact it may have in the future, and the merits of developing artificial intelligence and robotics technology for the purpose of assisting persons with disabilities with daily tasks. They do not contain specific, detailed information explaining the unusual influence or high impact her research has had on the overall field. Letters that specifically articulate how a petitioner's contributions are of major significance in the field and its impact on subsequent work add value. On the other hand, letters that lack specifics are not considered to be probative evidence that may form the basis for meeting this criterion.<sup>5</sup>

The reference letters and other evidence in the record show that the Petitioner's work has added to the general pool of knowledge and has resulted in incremental advancements in the field, as would be expected of any original research. However, the burden is on the Petitioner to not only identify her

<sup>4</sup> We have addressed the expert letters that discuss the Petitioner's work on the [redacted] project at University of [redacted] because this research forms the basis of her claim that she meets the criterion at 8 C.F.R. § 204.5(h)(3)(v). However, we have reviewed and considered all expert opinion letters provided in support of the petition.

<sup>5</sup> See 6 USCIS Policy Manual, *supra*, at F.2 appendix.

original contribution but to also demonstrate why it is considered to be of major significance in the field. Here, after reviewing the evidence submitted in support of this criterion, both individually and collectively, we conclude that she has not established 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 demonstrating that she satisfies 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, upon a review of the record in its entirety, we conclude that it does not support a finding that she has established the acclaim and recognition required for this classification.

The Petitioner seeks a highly restrictive visa classification, intended for individuals who are 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 academic, scholarly, research, and professional accomplishments to date 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 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; 8 C.F.R. § 204.5(h)(2).

The record does not establish that the Petitioner qualifies for classification as an individual of extraordinary ability. The appeal will therefore be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.