



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

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

In Re: 21539608

Date: AUG. 24, 2022

Motion on Administrative Appeals Office Decision

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

The Petitioner, a doctoral student and teaching assistant, 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 record did not establish that the Petitioner met the initial evidence requirements of this immigrant visa classification through evidence meeting at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3) or showing that he received a major, internationally-recognized award. The Petitioner appealed the Director's decision. Upon review, we concluded that although he had met one of the evidentiary criteria, he still had not established that he met the initial evidence requirement. The Petitioner now submits combined motions to reopen and reconsider.

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 review, we will dismiss both motions.

**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.

A motion to reconsider is based on an incorrect application of law or policy to the prior decision, and a motion to reopen is based on documentary evidence of new facts. The requirements of a motion to reconsider are located at 8 C.F.R. § 103.5(a)(3), and the requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

## II. ANALYSIS

The Petitioner is currently a doctoral student and teaching assistant at the University [redacted] [redacted] and has stated that he intends to pursue a teaching career at this or another institution. He holds a Master of Science degree in mathematics from [redacted] and another from the [redacted] University of [redacted]

### A. Motion to Reconsider

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3).

In first addressing the criterion at 8 C.F.R. § 204.5(h)(3)(iv) relating to judging the work of others in his field, the Petitioner asserts that we erred in finding that his participation in the [redacted] [redacted] “does not constitute a formal judging of the work of others.” However, our appeal decision did not use the term “formal judging” in its analysis under this criterion, and the Petitioner appears to have confused our decision with the Director’s, which is not at issue on motion.

The Petitioner also cites to a statement in one of our non-precedent decisions concerning a different individual which notes that this criterion “is broad enough to encompass a wide range of activities that involve judging the work of others, whether or not such judging entails, or results from, sustained acclaim in the field.” This decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case, and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. In addition, the cited language from that decision appeared as part of a final merits determination and was meant to highlight the difference between evidence which qualifies under this criterion and that which helps to establish a petitioner’s national or international acclaim. While we agree that a broad range of activities may qualify as judging the work of others in the field under 8 C.F.R. § 204.5(h)(3)(iv), it remains the Petitioner’s burden to establish that he participated in a qualifying activity.

In another statement regarding this criterion, the Petitioner asserts that our previous decision was incorrect in stating that the record does not include mention of the evaluation panels which he described as being part of the [redacted] project. Our decision stated that the only mention of the evaluation panels and the Petitioner’s involvement with them was made by the Petitioner, and that neither the [redacted] website information or the letter from [redacted] mentioned the panels at all, let alone his participation as a member. Although the Petitioner asserts that this statement was wrong, he does not point to specific evidence in the record where that information may be found.

Regarding the criterion at 8 C.F.R. § 204.5(h)(3)(v) relating to original contributions of major significance in the field, the Petitioner states that due to the nature of his research in the area of [redacted] [redacted] he is unable to submit evidence of patents, usage or implementation, but points to two reference letters which were submitted in response to the Director's request for evidence (RFE). The first of these is from [redacted] a professor at the [redacted] University [redacted] [redacted]. He states that while he hasn't interacted directly with the Petitioner, he and his colleagues cited to one of the Petitioner's articles published in 2016 and used his results in their own work. [redacted] [redacted] also briefly describes a 2014 paper that the Petitioner [redacted] which covered the use of [redacted] models in making [redacted] forecasts at the [redacted] level, noting that the Petitioner contributed mathematical models to this work. But he does not indicate that the Petitioner's contribution to this paper was an original contribution to the overall field of mathematics, nor does he provide any indication of its significance to the field.

The other reference letter was written by [redacted] of the [redacted] Institute of physics and Technology. He begins by discussing the Petitioner's academic excellence and performance as a teacher, but does not indicate that he made an original contribution in the latter field. [redacted] then describes a lecture given by the Petitioner at a scientific conference in 2008 that concerned [redacted] [redacted] which he indicates "was warmly appreciate by the audience." He goes on name other seminars at which the Petitioner spoke, provides a list of mathematics professors that he states have "recognized and praised" the Petitioner (some of whom also submitted reference letters), and states that the Petitioner has published more than 20 papers, many of which he claims have been highly cited. However, while he indicates that many of the Petitioner's presentations and publications were well received, he also does not identify an original contribution made to the field by the Petitioner, and his assertions regarding the widespread citation of this work is not supported in the record.

The Petitioner also references evidence of his participation in mathematical symposiums and conferences as supporting the importance of his research. However, we will not assume that every presentation made at a symposium or conference, even a prestigious one, constitutes a contribution of major significance. Rather, it is the documented impact such presentations have made which determines their significance to the field. "Contributions of major significance" connotes that the Petitioner's work has significantly impacted the field. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. 2013). 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. Here, the Petitioner has not shown that his presentations contributed to the field to the extent that they were of major significance.

After review of the Petitioner's brief and the previously submitted evidence he references, we find that he has not shown that our decision was based on an incorrect application of law or policy and that it was incorrect based on the evidence in the record of proceedings at the time. We will therefore dismiss his motion to reconsider.

## B. Motion to Reopen

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). The Petitioner submitted two additional documents in support of his motion, one each relating to the evidentiary criteria discussed above. Pertaining to his participation as a judge of the

work of others, he presents a new letter from [redacted] [redacted] Organizer. Much of his letter is taken directly from the previously-submitted webpage for the [redacted] but he does confirm the Petitioner's participation as a mentor in the program for 8 quarters spanning three years. The letter states that in this role the Petitioner has overseen and guided students through reading projects, and provided weekly feedback and assessments. As with the previous evidence, it does not indicate that he has participated in judging the students' presentations at the end of the quarter, or that the judging of these presentations is part of the role of mentors in the [redacted] program. Accordingly, this new evidence does not establish that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(iv).

As for the criterion relating to original contributions of major significance, the Petitioner asserts that his role in a project funded by the U.S. Army is both original and of major significance, and submits a document entitled "Report Documentation Page." However, this document neither lists the Petitioner as an "author" nor shows how this work is of major significance. The Petitioner has not established that the fact that a project to which he has contributed has been funded by the U.S. government leads to the conclusion that the research has already been of major significance to his field. Again, we look to the effect this work may have had on the work of other researchers in the field, and this new evidence does not provide such information.

Because the new evidence submitted on motion does not establish that he meets these evidentiary criteria, we will dismiss the Petitioner's motion to reopen.

**ORDER:** The motion to reconsider is dismissed.

**FURTHER ORDER:** The motion to reopen is dismissed.