U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40778876

Date: AUG. 17, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner 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.

USCIS denied the petition, concluding that the record did not establish that the Petitioner received a major, internationally recognized award or met the requirements of at least three of the ten evidentiary criteria. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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 that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria

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 evidence 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) (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

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). USCIS concluded that the Petitioner satisfied two criteria relating to judging and authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(iv) and (vi). However, USCIS further determined that the Petitioner did not meet the remaining two claimed evidentiary criteria associated with awards and original contributions of major significance at 8 C.F.R. § 204.5(h)(3)(i) and (v). On appeal, the Petitioner asserts that he meets these additional two criteria. We will not disturb USCIS' determinations regarding the Petitioner's judging and authorship of scholarly articles. Upon de novo review, we conclude that the Petitioner has met the additional criterion of original contributions under 8 C.F.R. § 204.5(h)(3)(v) and has therefore satisfied the initial evidence requirements.

A. Original Contributions of Major Significance

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for "evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." A petitioner may show that his or her 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. *See Visinscaia*, 4 F. Supp. 3d at 134-35. Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context for evaluating the claimed original contributions of

major significance, particularly when the record includes documentation corroborating the claimed significance. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Expert letters should specifically describe a petitioner's contribution and its significance to the field and state the basis of the writer's knowledge and expertise. *Id.*

The Petitioner contends that USCIS erred in determining the "record lack[s] objective documentary evidence to indicate the significance of the [P]etitioner's contributions to the field" and we agree. The Petitioner is a researcher in the field of radiotherapy, or radiation therapy, whose work involves understanding and overcoming radiation resistance in cancer. The record contains evidence of the Petitioner's published research in which contends he has made "groundbreaking discoveries," his Google Scholar Profile, and five letters of support from experts in his field. On appeal, the Petitioner additionally submits a joint support letter signed by five physicians and scientists in his field.

The Petitioner states that his work "significantly advanced our understanding of how cancer cells survive radiation therapy and has identified novel therapeutic targets to improve cancer treatment outcomes." He asserts that the importance of his work is reflected in his research accumulating more than 4,000 citations. This number is confirmed by his Google Scholar Profile. The profile also shows his highest cited publication has garnered 314 citations. The Petitioner submits a letter from M-S-, Director of Radiobiology at [redacted], who highlights the Petitioner's research and states that "200-300 citations associated with a single manuscript in this field is very high and demonstrates the significant impact of that work. A researcher with 4,000 total journal citations, especially if no single publication has more than 300 citations, demonstrates a significant and sustained impact within their field."

Furthermore, in the support letter written by G-I-, Director in the Division of Experimental Radiation Oncology at [redacted] University, the author states that the Petitioner's "discoveries have not remained confined to the laboratory. They have directly informed the development of rational combination therapies . . . many of which are now being tested by oncologists on their patients in preclinical and clinical settings in the United States and around the world." In the letter written by B-W-, Executive Vice President of Science and Research at the [redacted] the author discusses the Petitioner's discoveries and how they have "significantly advanced the field and proposed actionable strategies to overcome resistance and enhance radiotherapy outcomes." Further, in the letter the Petitioner submits on appeal, five physicians and scientists in his field jointly state that they "place his contributions in the top 1-5% of global researchers in this field." Here, the Petitioner provides evidence of a high citation record along with letters of support which confirm the significance of his discoveries in his field. In addition, the letters attest that his work has not only contributed to research in his field, but also to the ongoing treatment of cancer patients. We conclude that the Petitioner has shown, by a preponderance of the evidence, that he has made original scientific contributions of major significance in his field. Therefore, the Petitioner has established that he meets this criterion, and we withdraw USCIS' conclusion to the contrary.

B. Final Merits Determination

Based on the foregoing discussion, the Petitioner has satisfied at least three of the ten evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i)-(x).[1] We will therefore withdraw USCIS' decision, because that decision was based on a determination that the Petitioner had satisfied only two criteria and that he did not satisfy the initial evidence requirements for this classification.

However, granting three criteria does not suffice to establish eligibility for the classification the Petitioner seeks. USCIS must now make a final merits determination on the Petitioner's filing and consider whether the record establishes the sustained national or international acclaim and recognized achievements sufficient to place the Petitioner among the small percentage at the very top of his field. *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. USCIS did not make such a finding. Rather than make this determination in the first instance, we will remand the matter.

The final merits determination should weigh the evidence submitted in support of all claimed initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), any other potentially relevant evidence in the record (including evidence that does not fit one of the evidentiary criteria), and the Petitioner's claims and evidence on appeal. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2).

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

[1] We need not consider the Petitioner's arguments that he meets additional evidentiary criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x), because we have concluded that he satisfies the initial evidence requirements of meeting at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision). As the matter will be remanded, USCIS should consider all arguments and evidence in the final merits determination.