U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF Q-C-

DATE: JUNE 30, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a veterinary medicine researcher, seeks classification as an individual of extraordinary ability in the sciences. *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 Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief stating that he meets five criteria and has shown extraordinary ability in the field.

Upon *de novo* review, we will sustain the appeal.

I. LAW

Section 203(b) of the Act states in pertinent part:

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> (A) Aliens with extraordinary ability. – An alien is described in this subparagraph 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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence 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 works as a researcher in the [redacted] at [redacted] Because he has not established that he has received a major, internationally recognized award, the Petitioner must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the initial evidentiary requirements.

A. Evidentiary Criteria

The Director found that the Petitioner met the judging criterion under 8 C.F.R. § 204.5(h)(3)(iv). The record contains evidence of his review of articles for professional journals, such as [redacted] and [redacted] In addition, the Director determined that the Petitioner satisfied the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi) based on his authorship of numerous research articles that appeared in professional publications, such as [redacted] and [redacted] Moreover, the record indicates that he has made original contributions of major significance in the field that satisfy the criterion under 8 C.F.R. § 204.5(h)(3)(v). Specifically, the Petitioner's article in [redacted] concerning his isolation and characterization of [redacted]

has been extensively cited by other researchers in their own work. The significance of his research is further supported by recommendation letters detailing the impact of his findings on the field and by commercialization of his work in the form of a diagnostic test used by veterinarians to detect infection.

B. Final Merits Determination

As the record satisfies three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), we will analyze the 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. We will evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, making him one of the small percentage who have risen to the very top of 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. In the present matter, the Petitioner has shown his eligibility for this classification.

We evaluate the significance of the Petitioner's judging experience to determine if such evidence is indicative of his extraordinary ability as required for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22. Here, the record indicates that he has received and completed independent requests to review a substantial number of manuscripts for multiple professional publications and has served as an associate editor for a veterinary journal. We find this experience, together with the achievements described below, to be consistent with a determination that the Petitioner is among the small percentage at the top of his field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

With respect to his scholarly articles, the Petitioner has provided evidence of his authorship of a considerable amount of published material that appeared in professional journals, including multiple articles in a highly ranked journal of the In addition, the record includes abstracts and proceedings from his presentations at national and international professional conferences. As authoring scholarly articles is inherent to scientists and researchers, the citation history or other evidence of the influence of the Petitioner's articles is an important indicator of the impact and recognition that his work has had on the field and whether such influence has been sustained. In this case, the Petitioner has offered evidence that his articles in and have garnered an unusually high number of citations, and that his other work has also been cited a great deal. In fact, even after the filing of this appeal, his work continues to be cited at a level commensurate with sustained national or international acclaim at the top of his field. As such, the Petitioner has established that his publication record sets him apart through a "career of acclaimed work in the field." *See* H. Rep. No. 101-723, at 59 (Sept. 19, 1990).

The influence of the Petitioner's research is further evidenced through recommendation letters that identify his "unique and groundbreaking contributions to

development" and that explain how his work "has had a major impact on U.S. and global pork production." For example, professor and chair of at explained that there was an outbreak of in the U.S. in 2013 and that the disease has subsequently "caused annual economic losses of $1.2-$1.8 billion to the U.S. pork industry." indicated that the Petitioner "was the first researcher to successfully isolate the virus in cell culture, allowing for the development of a vaccine to protect pigs from the disease." He further noted that the Petitioner's work "saved the U.S. porcine industry hundreds of millions of dollars in losses and benefited the biopharma industry." In addition, director of global diagnostic medicine for a leading international producer of medicine and vaccinations for pets and livestock, stated that another " live vaccine candidate derived from [the Petitioner's] isolates" is under evaluation in trial studies. Lastly, dean of veterinary medicine at asserted that the Petitioner developed and optimized an immuno-fluorescence antibody diagnostic test to detect the infection. She also indicated that his test was commercialized by "as the first serologic assay to detect infection in the U.S." and that "[v]eterinarians across the U.S. and abroad are using this assay."

Finally, the record includes ample documentary evidence supporting the aforementioned references' statements regarding the significance and originality of the Petitioner's work. In addition to the extensive number of citations to his articles, he provided intellectual property documents identifying him as an inventor, evidence of royalties he received from and various media reports discussing his work.

In summary, the Petitioner has demonstrated his extraordinary ability. The totality of the evidence establishes that he possesses a level of expertise that is consistent with a finding that he is one of a small percentage at the very top of the field of endeavor and that he has documented sustained acclaim. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *Kazarian*, 596 F.3d at 1119-20.

III. CONCLUSION

The Petitioner has shown that he meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). He has also demonstrated sustained national and international acclaim and that his achievements have been recognized through extensive documentation. Finally, the Petitioner has indicated that he intends to continue working in his area of expertise. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.

Cite as *Matter of Q-C-*, ID# 447527 (AAO June 30, 2017)