U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36834834

Date: MAR. 10, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a researcher, seeks first preference immigrant 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 Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). 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 Director's 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 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 achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or 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).

II. ANALYSIS

Because the Petitioner has not indicated or established her receipt of a major, internationally recognized award, she must satisfy at least three of the regulatory criteria. The Petitioner claims that she meets three of the regulatory criteria, namely that she has participated as a judge of the work of others in her field, made original contributions of major significance, and has authored scholarly articles. 8 C.F.R. § 204.5(h)(3)(iv), (v), (vi).

The Director determined that the Petitioner has participated as a judge of the work of others in her field and has authored scholarly articles, but did not meet the requirements for original contributions of major significance. Upon de novo review, we agree that the Petitioner established the first two criteria. However, we disagree with the Director regarding their determination on the original contributions criterion and conclude that the Petitioner did establish this criterion.

To meet this criterion, a petitioner must submit "[e]vidence 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). USCIS should first determine whether an alien has made original contributions in their field. 6 *USCIS Policy Manual* F.2(B), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2. If so, the Agency should then determine whether any are of "major significance to the field." *Id.*

Evidence of significant contributions can include published research that has provoked widespread commentary on its importance from others in the field, or documentation that research generated a high number of citations relative to others' work in the field. *Id.* When determining whether original contributions have major significance, detailed letters from experts in the field explaining the nature and significance of the contributions may provide valuable context, especially if accompanied by corroborating documentation. *Id.*

At the time of the petition's filing, the Petitioner established her authorship of roughly 89 articles in peer-reviewed, scientific journals in the field. The Petitioner's articles have generated a significant number of citations in the field.[1]

[1] We observe that in her response to the request for evidence (RFE), the Petitioner submitted an updated Google Scholar

The Petitioner submitted detailed letters from several researchers in her field illustrating the nature and impact of her work. The letters describe several of the Petitioner's contributions as significant. For example, the letter from [redacted], a professor at [redacted], notes the Petitioner's innovative study on the Changbai Mountain tundra, wherein she simulated climate warming for seven growing seasons and collected data on the flora and fauna. She observed that warming amplified the absorption of methane and decreased that of nitrous oxide. This demonstrated a high balancing effect between different species of greenhouse gas under climate warming. The Petitioner concluded that total carbon absorption increased during the tundra's growing season, which benefited dominant shrubs. [redacted] letter states that the results of the study are "crucial for evaluating how climate change affects flora and fauna of an ecosystem, as well as its carbon budget."

Moreover, the letter from [redacted] the [redacted] Professor of Forestry at [redacted] details how the Petitioner's work has "solidified the importance of using forests as carbon sinks." The letter describes how her study observing the soil and roots of trees in [redacted] Forest supports that there is a need for carbon balance in warmer environments. The letter also states that many other researchers have found the Petitioner's findings useful in completion of their own studies on soil warming. Additionally, [redacted] a professor at the [redacted] letter states that the Petitioner's work on "temperate forests is critical for calculating carbon assimilation and storage in trees, as well as how increased carbon levels contribute to root growth." The letter further illustrates how the data generated by the Petitioner "assists in the development of global-scale carbon models." Therefore, we withdraw the Director's finding and determine that the Petitioner has established she made original contributions of major significance in her field.

As such, the Petitioner has established she meets three criteria and has satisfied part one of the two-step adjudicative process described in *Kazarian*. Accordingly, we will withdraw the Director's decision. As noted above, where a petitioner demonstrates that they meet these initial evidentiary 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*, 596 F.3d at 1115, section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3). We will therefore remand the matter for the Director to make the final merits determination in the first instance.

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

report and other evidence, which originated after the time of filing. A petitioner must meet all of the eligibility requirements of the petition at the time of filing. 8 C.F.R. §§ 103.2(b)(l), (12).