U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-L-

DATE: MAY 5, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an assistant professor, 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 initial evidentiary criteria, of which he must meet at least three. On appeal, the Petitioner submits additional evidence and argues that he has demonstrated eligibility for this classification.

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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and recognition in the field through a one-time achievement (that is, a major, internationally recognized award). Alternatively, a petitioner can provide documentation that meets at least three of the 10 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).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *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), *aff'd*, 683 F.3d. 1030 (9th Cir. 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that U.S. Citizenship and Immigration Services (USCIS) examines "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"). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of 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.

II. ANALYSIS

As the Petitioner has not 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). In denying the petition, the Director found that the Petitioner met the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv) and the authorship of scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner maintains that he also meets the contributions of major significance criterion at 8 C.F.R. § 204.5(h)(3)(v). Upon review, we agree that the Petitioner has met the plain language requirements of these three criteria. Furthermore, in a final merits analysis, we find that the Petitioner has demonstrated achievements indicating he is one of that small percentage at the very top of the field of endeavor.

A. Evidentiary Criteria

> *Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv).

The Petitioner offered evidence that he has reviewed manuscripts submitted for publication in [redacted] among other journals. We therefore agree with the Director that the evidence provided meets the plain language requirements of the regulation.

> *Evidence 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).

The Director found the Petitioner did not meet this criterion. Upon a review of the record, however, we agree with the Petitioner that he has shown original scientific contributions of major significance in the field.

The Petitioner provided evidence that he was a part of a team that conducted a study on osteoporosis, which resulted in considerable attention from the field, as well as from major media outlets. The resulting article titled, '[redacted]' appeared in [redacted] in 2012. The findings presented in the article had important impacts in the medical industry. A practice guideline article in [redacted] a leading journal in the field of infectious disease, discussed this work. Multiple major media publications, such as [redacted] and [redacted] also reported on the study. The Petitioner provided several examples of materials produced by insurance companies that cite to the study in support of their recommended policies. We therefore agree that the project had major significance.

[redacted] an assistant professor at the [redacted] at [redacted] who was first author on the article, explained the Petitioner's role in the project, stating that he provided a statistical analysis and data transformation, which structured the accumulated data into usable information. She indicated that the Petitioner served as one of the primary statisticians on the project, and that he was a crucial contributor to the research. Specifically, she noted that the Petitioner's understanding of analytics was incredibly helpful for determining the length of the recommended interval testing to limit osteoporotic fractures and other injuries.

The Petitioner has demonstrated his role in this study, which received extensive attention from the media, the research community, and the medical industry. In view of the foregoing, the Petitioner has submitted evidence that meets the plain language requirements of this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi).

The Petitioner submitted evidence that he authored published scholarly articles in his field, such as ' which appeared in We therefore agree with the Director that the evidence provided meets the plain language requirements of this criterion.

B. Final Merits Determination

In a final merits determination, we examine the material in a collective nature to determine if the individual has demonstrated, by a preponderance of the evidence, that he or she has sustained national or international acclaim, and achievements recognized in the field through extensive documentation. The Petitioner has offered proof showing his peer review service, letters from experts in his field, data on the prestige related to journals that published his work, and evidence for how his work has influenced the field.

The Petitioner currently serves as an assistant professor in the and department at In support of his extraordinary ability, the Petitioner points primarily to his record of publication. The previously discussed paper published in was among the top one percent of work published in clinical medicine for that year. of his other articles were among the top 10 percent of those published. We agree that the Petitioner's rate of success for someone relatively new to academia is consistent with an individual of extraordinary ability.

In addition, the Petitioner provided supporting documentation to illustrate the substantive importance of the work reflected in his articles. The osteoporosis study for which the Petitioner worked with received attention in several major media outlets. The Petitioner's role as "a primary statistician" and "a crucial contributor to the research" is meaningful. The practical importance of the study is demonstrated by the various health industry publications that cite to the study as the basis for policies or recommendations. The record contains materials issued by the states of Oregon and Washington, as well as the insurance company that cite to the Petitioner's findings as the basis for medical screening recommendations. The wide reach of such recommendations means that the influence of this portion of the Petitioner's work has extended beyond the biostatistical field, and now impacts large swaths of the general population.

Regarding his other papers, the Petitioner noted that his research findings are critical to the statistical analysis of different health measures. He provided numerous letters of recommendation from academics and experts in the field that support this characterization. Several reference writers noted the importance of statistical methods and models developed by the Petitioner, which are necessary in biostatistics in order to make accurate findings from the large amounts of data collected. a professor at the provided a letter stating the Petitioner's statistical models have been "eminently useful." He discussed how the Petitioner's work

resulted in a profile of the Alzheimer's illness that "has been integral to improving our understanding of cognitive decline in the elderly by characterizing mental trajectories." an assistant professor at similarly described the importance of the Petitioner's research efforts and detailed how his specific methodology resulted in more reliable outcomes than traditional strategies.

When considered in its totality, the evidence submitted supports a finding that the Petitioner possesses extraordinary ability. He has shown that he consistently produces articles that receive acclaim in the field, showing impact consistent with a researcher at the top of the field. The Petitioner has shown that his work has guided general health recommendations for Americans, suggesting influence that extends far beyond the field of biostatistics. The record therefore supports a finding that the Petitioner is an individual of extraordinary ability and that he therefore qualifies for the benefit sought.

III. CONCLUSION

A review of the totality of the evidence indicates that the Petitioner has sustained national or international acclaim and a level of expertise indicating that he is one of that small percentage who have risen to the very top of the field of endeavor.

ORDER: The appeal is sustained.

Cite as *Matter of L-C-*, ID# 301811 (AAO May 5, 2017)