U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF P-L-

DATE: MAY 25, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a researcher in the field of neurological diseases, 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 she must meet at least three.

On appeal, the Petitioner submits documentation and a brief stating that she meets at least three criteria. She further maintains that she 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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the 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 documentation that meets at least three of the 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 it fulfills the required number of criteria, is 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

The Petitioner is employed at [redacted] and completed a research fellowship at the [redacted] Because she has not established that she has received a major, internationally recognized award, she 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 her review of articles for professional journals, such as [redacted] In addition, the Director determined that she satisfied the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi) based on her authorship of numerous manuscripts that

appeared in professional publications, such as [redacted] and [redacted] Moreover, the record indicates that she 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, her article in [redacted] has been extensively cited by other researchers in their own work and its significance is further supported by recommendation letters detailing the impact that the piece has had on the field.

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 her successes are sufficient to demonstrate that she has extraordinary ability in the field of endeavor. We will evaluate whether she has demonstrated, by a preponderance of the evidence, that she has sustained national or international acclaim and that her achievements have been recognized in the field through extensive documentation, making her 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 this matter, the Petitioner has shown her eligibility for the classification.

We evaluate the significance of the Petitioner's judging experience to determine if such evidence is indicative of her extraordinary ability as required for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22. Here, the record indicates that she has received and completed independent requests to review a substantial number of manuscripts for numerous professional publications, establishing that she is among that small percentage who have risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

As pertaining to her authorship of scholarly articles, the Petitioner has provided evidence of her considerable amount of published material that appeared in professional journals, including numerous articles in [redacted] a highly ranked journal of the [redacted] In addition, the record includes abstracts and proceedings from her presentations at professional conferences. As such, she has established that her publication record, as well as her presentations, sets her apart through a "career of acclaimed work in the field." *See* H. Rep. No. 101-723, at 59 (Sept. 19, 1990). The statute requires the Petitioner to submit "extensive documentation" of her sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring [a] petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991).

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 her work has had on the field and whether such influence has been sustained. For example, numerous independent citations to an article authored by the Petitioner would support a finding that other researches have recognized and been influenced by her work. On the other hand,

few or no citations to an article authored by the Petitioner may indicate that her work has gone largely unnoticed by her field. In the case here, the Petitioner has offered evidence that one of her articles has garnered an unusually high number of citations, and that her other work has also been cited a great deal. In fact, even after the filing of this appeal, her work continues to be cited at a level commensurate with sustained national or international acclaim at the top of her field. The influence of her work is further evidenced through recommendation letters that identify her "important scientific achievements in several areas of neurodegenerative diseases" and explain how her research has solidified her "international reputation in her dedicated field."

In short, the Petitioner has demonstrated her extraordinary ability. The totality of the evidence establishes that she possesses a level of expertise that is consistent with a finding that she is one of a small percentage who have risen to the very top of the field of endeavor. In addition, she 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 she meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). She has also demonstrated sustained national and international acclaim and that her achievements have been recognized through extensive documentation. She therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.

Cite as *Matter of P-L-*, ID# 270027 (AAO May 25, 2017)