U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF J-A-J-

DATE: NOV. 28, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a physicist, 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 three additional 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

At the time of filing, the Petitioner was working as an engineering physicist 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). In support of this finding, the record contains evidence of his review of material for [redacted] and the [redacted] committee. 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 co-authorship of numerous research articles that appeared in professional publications, such as [redacted] and [redacted] Moreover, we find the record indicates that the Petitioner 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 has developed novel platforms for [redacted] control systems that are widely utilized in the research community and commercial sector. Lastly, he has provided contracts and national wage information for physicists indicating that he commands a high salary relative to others in the field under 8 C.F.R. § 204.5(h)(3)(ix).

B. Final Merits Determination

As the record satisfies at least 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 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.

The Petitioner received a Ph.D. in particle physics from (2006) and later accepted a to perform physics research at He has worked as an engineering physicist at since 2012.

With respect to his scholarly articles, the Petitioner has provided evidence of his co-authorship of a considerable amount of published material that appeared in professional journals. In addition, the record includes numerous 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 a report from reflecting thousands of citations to his published work from 2007 to present. The number of research articles he has coauthored and their unusually high rate of citation is commensurate with sustained national or international acclaim at the very top of the 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 original contributions in particle and accelerator physics and explain how those innovations have significantly impacted his field. For example, a professor at states: "[The Petitioner] introduced a new approach in the architecture of trigger systems for physics experiments known as the which is in use by multiple groups now and we are using for our latest project at ." In addition, electronics engineering director at the asserts that the Petitioner's electronics platform is "producing the best results ever seen" in a control system. further explains that the Petitioner's "powerful designs and solutions" are "utilized by across the United States, including and ," and that "[o]ther labs, including are current[ly] seeking to adopt his solutions."

In his letter, professor of physics at contends that the Petitioner's "novel designs and process approaches have revolutionized the way we in the physics field are able to conduct experiments, and greatly improved the data we are able to take away from our experiments." Furthermore, a physics professor at the in Greece, states that "[t]he stacked pixel detector pioneered by [the Petitioner] has become the baseline design for the new of the experiment and "demonstrates [the Petitioner's] important and far-ranging contributions to the field."[1] Lastly, a senior scientist at asserts that the Petitioner's "contributions and skills place him among the world's top particle and accelerator physicists."

With regard to his work as a judge of others, the record indicates that the Petitioner has peer reviewed others' published work and performed a systems review of the accelerator components. In addition, regarding his high salary, the Petitioner has provided service and labor contracts he entered into with He also offers wage statistics for physicists from the and the as bases for comparison. The salary information from the aforementioned organizations is sufficient to demonstrate that the Petitioner's wages and compensation from are significantly high relative to other physicists. We find the Petitioner's judging experience and wages, together with the achievements described above, 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).

Finally, the record includes ample documentary evidence supporting the aforementioned references' statements regarding the Petitioner's standing in the field and the significance and originality of his work. In addition to the extensive number of citations to his articles, he provides documentation showing that his work is widely utilized by universities, engineering companies, and research organizations. 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. Lastly, 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.

[1] According to is a worldwide collaboration, and is one of the experiments in physics."

ORDER: The appeal is sustained.

Cite as *Matter of J-A-J-*, ID# 1017253 (AAO Nov. 28, 2017)