U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF G-P-

DATE: OCT. 17, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an internist and researcher in the field of cardiology, 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 did not satisfy, as required, at least three of the ten initial evidentiary criteria.

On appeal, the Petitioner submits additional documentation and a brief, stating that he satisfies at least three criteria. In addition, he maintains that he has established his eligibility for the classification.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to qualified foreign nationals 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 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). If that petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten criteria 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 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

As the Petitioner has not stated or established his receipt of a major, internationally recognized award, he must satisfy at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x). In his decision denying the petition, the Director determined that the Petitioner met two criteria: participation as a judge of others' work under 8 C.F.R. § 204.5(h)(3)(iv), and authorship of scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi).

The record supports the Director's finding. Specifically, the Petitioner has served as a reviewer for [redacted] reviewing manuscripts for the publication. In addition, he has authored several scholarly articles that appeared in professional publications. They include a [redacted] article entitled "[redacted] and a [redacted] article entitled [redacted] In light of these documents, the Petitioner has satisfied the criteria relating to his participation as a judge and authorship of scholarly articles. *See* 8 C.F.R. § 204.5(h)(3)(iv), (vi).

On appeal, the Petitioner maintains that he has presented evidence of his original scientific contributions of major significance in the field of cardiology. *See* 8 C.F.R. § 204.5(h)(3)(v). Upon a

review of all the evidence in the record, we conclude that it is insufficient to support a finding that he meets a third criterion.

> *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).

On appeal, the Petitioner maintains that the Director erred in concluding that he did not satisfy this criterion. He states that he has made original scientific contributions of major significance in cardiology because his work has been "incorporated into official guidelines by the and "included in the guidelines of [a biomedical publication] In addition, he indicates that other scientists "have made significant changes to their clinical stress testing protocols because of [his] research." While he has demonstrated his influence on some researchers, he has not sufficiently shown that his impact rises to the level of "major significance in the field" as required under this criterion.

The Petitioner has not demonstrated that his work, cited in the materials, constitutes contributions of major significance in the field. According to the documents in the record, the has 4,500 members worldwide and provides continuing medical education to physicians. It cites two of the Petitioner's scholarly articles among 147 cited references in its The does not cite the Petitioner's work alone in support of any propositions or recommendations. Rather, where it references his work, it also includes other sources. The Petitioner has not explained how being cited twice in the guidelines among many other sources rises to the level of "major significance" in the field. In addition, he has not offered sufficient evidence establishing that the field of cardiology has widely accepted his findings referenced in the guidelines or has implemented the related recommendations.

According to the Petitioner, his work on the safety of regadenoson led to a change in the guidelines. As supporting evidence, he offers the 2009 article entitled ' which states that the ' and the 2016 guidelines that cite the Petitioner's research on regadenoson. The portions of the 2016 guidelines that reference the Petitioner's research, however, do not discuss the administration of regadenoson on patients with bronchospasm. Rather, they note the effects of regadenoson when combined with low-level exercise, or when administered on patients with renal disease. As such, the Petitioner has not sufficiently demonstrated that his work affected the 2009 guidelines, or that it constitutes contributions of major significance in the field.

---

[1] The Petitioner has provided an incomplete copy of the " A complete copy of the guidelines is available at http://www accessed on September 28, 2017, and incorporated into the record of proceedings.

Similarly, although the Petitioner has authored an article for one of the continuing education courses, he has not shown that this work meets this criterion. Specifically, the record lacks evidence on the impact that his piece has had on the field of cardiology. While his work may have been informative, without additional corroboration that verifies its influence on the field, the Petitioner has not sufficiently illustrated that it is a contribution of major significance. The record, as it stands, does not establish the Petitioner's studies and articles that the has referenced or published constitute contributions of "major significance" in the field.

Moreover, while a proprietary subscription-based clinical research service, cites one of the Petitioner's articles among 61 references in its [2] the record does not demonstrate the Petitioner meets this criterion. The single reference illustrates that his research has had some impact, specifically on the authors of the article. The Petitioner states that has a broad reach among physicians and hospitals, but he has not offered documentation verifying that claim or demonstrating that the field of cardiology has widely accepted his findings or implemented recommendations. Thus, he has not shown that being cited once in the article supports a finding that he has made contributions of "major significance" in the field.

In addition, the reference letters in the record do not establish that the Petitioner meets this criterion. The record confirms that his work has affected other scientists' research. For example, , an assistant professor at the indicates that he "implemented the regadenoson test in [his] clinic" because he was "[e]ncouraged by [the Petitioner's] results." a cardiologist at states that because of the Petitioner's research on low-level exercise, he has "[i]ncorporated these physical activity regiments into [his own] stress tests" and has "capture[d] excellent images with diagnostic efficacy." a senior staff cardiologist and director of nuclear cardiology at the explains that the Petitioner's regadenoson research has "fueled a . . . clinical trial." According to an associate professor of medicine at the Petitioner's work "motivated [him] to evaluate [regadenoson's] efficacy in an expanded patient cohort." a professor of medicine at notes that he has used the Petitioner's "study results to help interpret and justify [his own] findings about the side effects and safety of [regadenoson] for patients with end-stage renal disease." an associate professor of medicine in the at the provides that the Petitioner's work "has been essential to lay the foundation" for his own studies.

[2] The Petitioner has provided an incomplete copy of the ' A complete list of the references is available at http://www. accessed on September 19, 2017, and incorporated into the record of proceedings.

The record, including reference letters not specifically noted above but reviewed, does not demonstrate that the Petitioner has made contributions of major significance to the field as a whole. The plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(v) requires that the contributions be "of major significance in the field." *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole). Here, while the Petitioner has had some impact on other scientists, he has not shown a widespread implementation or acceptance of his research in the field, such that it equates to an original contribution of major significance in the field.

Likewise, although the record demonstrates that the Petitioner's work has garnered citations from other scientists, it does not support a finding that he meets this criterion. indicates that other scientists have "framed [the Petitioner's] incisive work as 'valuable' in bolstering the case for regadenoson stress MPI [myocardial perfusion imaging] use, and attributed to him several key discoveries about regadenoson MPI and its utility in detecting coronary and cardiovascular problems." provides that the Petitioner's article on regadenoson has received "18 citations by researchers from diverse, respected institutions." notes, "[o]n more than 120 occasions, U.S. and international researchers have cited [the Petitioner's] published works." On appeal, the Petitioner submits a printout from indicating that he has authored a number of scholarly works, and that other scientists have cited to 11 of them. Three of his most cited articles garnered between 20 to 19 citations, while some of his work received no citation. He has not sufficiently demonstrated that such citation frequency supports a finding that his studies qualify as contributions of major significance in the field.

The record contains other reference letters, including those from the program director of the at and an associate professor at the These letters discuss the Petitioner's research, but do not explain how his impact on the field has reached a level that supports a finding of original contributions of major significance in the field.

Supporting documents, including reference letters, that do not explain how a petitioner's contributions have already influenced the field are insufficient to establish his or her original contributions of major significance in the field. *Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d at 1115. In 2010, the *Kazarian* court reiterated that U.S. Citizenship and Immigration Services' conclusion that the "letters from physics professors attesting to [the petitioner's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122. In this case, the Petitioner establishes that his work has influenced some scientists' studies, but he has not sufficiently demonstrated his contributions are of major significance in the field as a whole. Accordingly, he has not met this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence that establishes his receipt of a one-time achievement or shows that he meets at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we have reviewed the record in the aggregate, and conclude that it does not sufficiently demonstrate the Petitioner's sustained national or international acclaim or that his achievements have been recognized in the field through extensive documentation. For these reasons, he has not established he qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of G-P-*, ID# 594454 (AAO Oct. 17, 2017)