U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF G-S-

DATE: SEPT. 13, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a physicist and computational researcher, 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 two of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits documentation and a brief, stating that he satisfies at least three criteria.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to qualified 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 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 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); *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

The Petitioner is the director of research computing at [redacted]. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner met two criteria: scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi) and leading or critical role under 8 C.F.R. § 204.5(h)(3)(viii).

On appeal, the Petitioner maintains that he meets the criteria for judging under 8 C.F.R. § 204.5(h)(3)(iv) and original contributions under § 204.5(h)(3)(v). We have reviewed all of the evidence in the record, and conclude it does not support a finding that the Petitioner satisfies the plain language requirements of at least three 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 maintains that his numerous requests to review articles for journals, such as the [redacted] and [redacted] meet this criterion. The regulation at 8 C.F.R. § 204.5(h)(3)(iv) requires the Petitioner to establish that he has participated as a judge of the work of others. In denying the

petition, the Director noted that, although the record shows that he was *invited* to assess work for journals, the Petitioner did not demonstrate that he actually judged the articles or papers. On appeal, the Petitioner contends that "[i]n order to receive such a large request-base, [he] would have had to build up a reputation in his field as an extraordinary reviewer – which he would not have been able to do had he ignored the requests he had previously received." The Petitioner did not, however, provide documentation to support this assertion, nor did he present additional evidence from the journals confirming his critiques or reviews.

Similarly, the Petitioner provided emails thanking the Petitioner for volunteering to judge student posters at the upcoming 2013 conference and inquiring about his availability for the 2014 and 2015 Further, the Petitioner submitted emails indicating that he received requests and agreed to review papers for the The record, however, does not contain evidence showing that he, in fact, evaluated the posters or papers or otherwise judged them.

In addition, the Petitioner offered emails regarding to his involvement in a mentorship program at Specifically, the emails relate to the introduction and pairing of mentors with protégés. The documentation, though, does not indicate that the Petitioner participated as a judge of the work of others rather than acting in the capacity as an advisor or mentor.

The Petitioner also presented a letter from director for the who stated that the Petitioner served on a panel in 2016 and as a committee member in 2015 and 2016. however, did not elaborate or explain the Petitioner's duties or responsibilities to demonstrate that they included serving as a judge of the work of others. On appeal, the Petitioner states that the Director's "argument that being on a panel at a scientific conference does not constitute serving as a reviewer is illogical, because said panels always function as such." He does not, however, offer documentary evidence to support that assertion or to confirm his actual duties at the conferences.

On appeal, the Petitioner submits an appreciation certificate from for his "membership and Contribution to the group for ' an email asking the Petitioner if he wants have access to ' and an email requesting his interest in attending an upcoming training workshop. All of the documents, however, pertain to events occurring after the filing of the initial petition. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Moreover, the Petitioner's evidence does not indicate evidence of his participation as a judge of the work of others consistent with the requirements of this regulatory criterion. For these reasons, the Petitioner has not established that he meets this 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).

The Petitioner contends that the citations of his work by others and his recommendation letters demonstrate his eligibility for this criterion. The record contains screenshots from that show he published 37 papers, which have been cited 535 times. Specifically, the majority of his citations derived from two articles published in (194 citations) and (114 citations). Generally, citations can serve as an indication that the field has taken interest in a petitioner's work. Here, the number of his citations shows that his research and work have garnered attention from others. However, the Petitioner has not sufficiently identified what contributions he has made through his publications or explained their significance in the field. In reviewing his recommendation letters, the authors do not mention the and articles or otherwise discuss how his published work rises to a level of original contributions of major significance in the field. In fact, only two of his recommendation letters reference his published research and they summarize his authorship and citation history without explaining how the underlying work and the resulting articles have been of major significance. For instance, professor at stated that the Petitioner's "results are published in prestigious journals," "[h]e was co-author on many articles on the of on and ' and "[h]is work is cited in more than 400 publications." In addition, associate chair at indicated that the Petitioner "is a prolific writer and published or peer-reviewed scientific papers himself." Neither author describes how the Petitioner's written work has been highly influential or how his research has impacted the field. Publications are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "*major* significance." *Kazarian v. USCIS,* 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115. In 2010, the *Kazarian* court reaffirmed its holding that we did not abuse our discretion in our adverse finding relating to this criterion. 596 F.3d at 1122.

Rather than describing specific significant contributions that he has made to the greater field, the Petitioner's recommendation letters elaborate on his role and contributions to For example, director of advance research computing at the discussed the Petitioner's "continuation of the building and implementation of [high-performance computing] and other computing resources at to benefit the entire ' Another reference, associate chair at stated that "[the Petitioner's] improvements became very apparent to administration, and that led to [the Petitioner] being put in charge of a very important He further explains that the Petitioner was asked to build a high-performance computer cluster, called which "is so heavily used by researchers that we are continually striving to add more compute nodes and other critical components to meet the demand." Moreover, chief technology officer at the indicated that the Petitioner "has created several extensions to meet the needs of his university." Although the authors expressed that they are impressed by the Petitioner's work, they did not demonstrate the significance of it beyond *See Visinscaia*, 4 F. Supp. 3d at

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1 " (2007).

2 " (2008).

134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field).

The Petitioner also provided a letter from program director at the who stated that the Petitioner provided his assessment of two high performance supercomputing resources (and , developed by and the Although stated that the Petitioner's work constituted "prominent contributions" towards consideration of acquiring, deploying, and operating the resources, he did not establish the significance of his contributions in the field.

Further, the references discuss the Petitioner's "unique" professional and personal qualities. For instance, associate chief information officer at stated that the Petitioner "brings together the three essential skill sets required for effectively building, growing, and maintaining an effective research computing program – scientific research experience, technical expertise . . . and teaching/mentoring expertise," and the Petitioner "is a rare model of the balance of skills needed for this essential role to support research computing." In addition, indicated that "[f]inding someone with this breadth of expertise is uncommon," and "when one combines his personal interactions and his professional skills, one concludes that [the Petitioner] adds to and enriches the American society in multiple dimensions." Another reference, professor at claimed that the Petitioner's "unique skill set is the result of many years of diligent efforts on his part to not only understand the science behind the algorithms he writes and uses but also the computational aspects." Having a diverse or rare skill set is not a contribution of major significance in and of itself. In this case, the authors did not demonstrate how the Petitioner has used those unique skills to impact the field at a significant level.

The letters considered above do not provide specific examples of how the Petitioner's contributions rise to a level consistent with major significance. Letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish 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 USCIS' 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. Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). For these reasons, the Petitioner has not met his burden of showing that he has made original contributions of major significance in the field.

> *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).*

As discussed above, the Petitioner authored articles that were published in professional journals, such as and Therefore, the Director found that the Petitioner satisfied this criterion, and we agree with that determination.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

The Director determined that the Petitioner met this criterion. As indicated above, the Petitioner provided letters regarding his critical role with an institution with a distinguished reputation. Accordingly, we agree with the Director's findings for this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet 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 advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r. 1994). In the case here, the Petitioner has not shown that his poster and paper review requests are indicative of the required sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. Without evidence that sets him apart from others in his field, such as evidence that he has a consistent history of completing a substantial number of review requests relative to others, served in an editorial position for a distinguished journal or publication, or chaired a technical committee for a reputable conference, the Petitioner has not established his peer review requests places him among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). Further, the Petitioner has not provided documentation demonstrating that his authorship and citation history is consistent with being among the small percentage at the top of his field or having a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). Moreover, the record does not otherwise demonstrate that the Petitioner's work has garnered national or international acclaim in the field. *See* section 203(b)(1)(A) of the Act.

For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of G-S-*, ID# 536887 (AAO Sept. 13, 2017)