



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 25425005

Date: APR. 12, 2023

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a cancer research scientist, seeks classification as an individual of extraordinary ability. *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 petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter *de novo*. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to 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 a multi-part analysis. First, a petitioner can demonstrate 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 sufficient qualifying 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).

II. ANALYSIS

The Petitioner is a physician specializing in cancer research. He received his Doctor of Medicine degree from [redacted] Medical University in 2011. At the time of filing in July 2022, he was employed as a physician and researcher in the abdominal oncology department of the National Medical Research Center for Oncology in [redacted] Russia.

A. Evidentiary Criteria

Because the Petitioner has not indicated or demonstrated that he has received a major, internationally recognized award at 8 C.F.R. § 204.5(h)(3), 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 determined that the Petitioner met two of the criteria, judging at 8 C.F.R. § 204.5(h)(3)(iv) and scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner asserts that he also meets two additional criteria, membership in associations at 8 C.F.R. § 204.5(h)(3)(ii) and original contributions of major significance at 8 C.F.R. § 204.5(h)(3)(v). Upon review of the record, we agree with the Director that the Petitioner has satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi). We will discuss the other claimed criteria below.

Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.
8 C.F.R. § 204.5(h)(3)(ii).

In order to meet this criterion, a petitioner must establish that membership in the association requires outstanding achievements in the field for which classification is sought, as judged by recognized

national or international experts.¹ The Petitioner claims he meets this criterion based upon his membership in the American Society of Clinical Oncology (ASCO) and the Russian Society of Oncologic Urologists (RSOU).²

Regarding ASCO, within his response to the Director's request for evidence, the Petitioner submitted evidence of his membership and an article from ASCO titled "American Society of Clinical Oncology Criteria for High-Quality Clinical Pathways in Oncology." The article provides ASCO's criteria to assess the quality of pathway programs used by health plans and medical providers. On appeal, the Petitioner provides an online printout from ASCO's website, indicating that the organization offers "a variety of membership categories and benefits designed to fit your career stage and specific needs."

The above documents establish that ASCO is a professional association representing physicians and other health care professionals working in the field of oncology. There is no evidence (such as membership bylaws or other official documentation of membership criteria) showing ASCO's admission requirements, or that recognized national or international experts judge the outstanding achievements for membership with ASCO.

Pertaining to RSOU, the Petitioner submitted evidence of his membership, the society's charter dated 2018, and information about other members of the organization, including its president, executive director, and several board members. The Petitioner did not establish that the RSOU membership requirements rise to the level of "outstanding achievements" consistent with this regulatory criterion.

Instead, based on the presented documentation, RSOU membership is open to those who "have reached the age of 18, who are oncologists, oncurologists, chemotherapists, radiologists, pathomorphologists, or specialists in related fields, who have a high professional level recognized by leading experts in the industry." The charter also indicates that membership decisions are made by a simple majority vote of members of the relevant bureau, either of a regional office or of RSOU.

The Petitioner did not submit evidence that RSOU requires anything other than the Petitioner having attained certain educational requirements to become a member of the organization. The stated educational requirements of the organization are not outstanding achievements. Although RSOU requires that prospective members provide evidence of "a high professional level," the record does not establish the process by which prospective members are evaluated by the relevant bureau. Therefore, the evidence does not demonstrate that RSOU imposes an additional qualitative criterion that amounts to an "outstanding achievement" requirement. Although on appeal the Petitioner highlights the fact that RSOU "votes on whether to accept members," this would be commensurate with many associations, as membership in any society must be reviewed and evaluated before acceptance. There is nothing to indicate that the RSOU selects members on the basis of outstanding achievements.

In this case, the evidence does not demonstrate that ASCO or RSOU selects members based on outstanding achievements. For the reasons discussed above, the Petitioner did not show that he satisfies this criterion.

¹ See also 6 USCIS Policy Manual F.2(B)(2), <https://www.uscis.gov/policymanual>.

² The Petitioner previously claimed eligibility for this criterion based on his membership with other associations; however, he does not argue on appeal, nor does the record reflect, his eligibility based on those associations.

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).

In order to meet this criterion, a petitioner must demonstrate that his contributions are not only original, but also “of major significance in the field.”³ For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Petitioner’s statement provides that his scientific interest is “related to malignant tumors, their diagnosis and overcoming resistance to therapy.” Specifically, his research work in Russia and the United States has involved “biomarkers that make it possible to predict the course of disease in patients with colorectal cancer, esophageal cancer, and lung cancer.” He indicated that his work focused on the [redacted] known to show increased activity in some types of cancers.

As stated, this criterion requires the Petitioner to establish that he has made original contributions of major significance. Thus, the burden is on the Petitioner to identify his original contributions and explain why they are of major significance in the field. Although the Petitioner provided evidence reflecting the originality of his research through recommendation letters praising him for his contributions, the authors do not provide specific examples of contributions that are indicative of major significance.⁴

In general, the letters recount the Petitioner’s research and findings, indicate their publication in journals, and comment on their potential and possible future applications. But the letters do not demonstrate that his research has made the required impact in the field. For example, Dr. E-A-G, professor of molecular therapeutics at [redacted] states that the Petitioner worked with her laboratory on two scientific studies. She indicates that one project was the first to show the possibility of using the [redacted] protein as a diagnostic biomarker and a possible therapeutic target for non-small cell lung cancer. That scientific work was published in *Oncogenesis* in 2021. She provides that the Petitioner “performed extensive work using cell line models for this project, as well as much of the patient-related research and interpretation of obtained data.”

Regarding an additional project with her laboratory, Dr. E-A-G- states the Petitioner studied the role of the [redacted] as a biomarker in 125 patients with colorectal cancer and in patients with colon polyps. The Petitioner’s study, published in *Plos ONE* in 2021, found that elevated levels of [redacted] were associated with worse prognosis, metastasis, and risk of relapse following treatment, and indicated [redacted] increase is an early step in cancer development. She asserts that the Petitioner’s findings, coupled with other published work, support the use of [redacted] levels as a new diagnostic biomarker in patients with colorectal cancer, and suggest the utility of developing drugs to target [redacted] for the prevention of malignant tumors.

³ See also 6 USCIS Policy Manual, *supra*, at F.2(B)(2) (providing guidance on the review of evidence submitted to satisfy the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x)) (stating that although funded and published work may be “original,” this fact alone is not sufficient to establish that the work is of major significance).

⁴ While we do not discuss every letter submitted, we have reviewed and considered each one.

Dr. E-A-G- indicates that the research projects the Petitioner has performed “are of great importance for the development of new methods of treatment and diagnosis of cancer,” but she does not explain how other researchers have used this information to date, nor does the record show that diagnostic or therapeutic treatments have been derived from those particular research projects.

Additional letters of support from the Petitioner’s colleagues at [redacted] including Dr. A-K- and Dr. I-A-, summarize the Petitioner’s research work at that institution. Dr. I-A- characterizes the Petitioner’s findings as “a significant contribution to the development of diagnosis and prevention of colorectal cancer.” His letter does not sufficiently detail in what ways the Petitioner has advanced the state of research in his field or elaborate on how the Petitioner’s work has already impacted the wider field beyond the team of researchers that has directly cited his article on this topic.

Further, the Petitioner provided letters from Dr. V-T-, a research fellow at the [redacted] [redacted] and the Petitioner’s mentor at the [redacted] for Oncology. Dr. V-T- states that the Petitioner was responsible for the development and implementation of a new protocol, [redacted] for the treatment of esophageal cancer at the cancer center of the [redacted] for Oncology. He asserts the new protocol “significantly improved the long term outcomes of treatment in patients in our community.”

Moreover, letters from Dr. Y-B-, an oncologist at [redacted] indicates he collaborated with the Petitioner, both on the aforementioned research projects at [redacted] and on two separate projects. Regarding the Petitioner’s work at [redacted] he asserts “[t]he results shown by [the Petitioner] in his research of the new biomarker, [redacted] in colorectal cancer are [a] major contribution and have great significance to the development of health care, science and improving of cancer patients’ life.” However, he does not discuss in detail how the Petitioner’s work has already remarkably impacted their shared field, or provide examples of specific applications attributed to the Petitioner’s work in this area.

Regarding the two additional projects referenced by Dr. Y-B-, he indicates one involved a patient study that “revealed 9 significantly up-regulated proteins, and 1 significantly down-regulated protein in colorectal cancer tissue.” Regarding the study’s significance, Dr. Y-B- states that “for the first time we have shown previously unknown information about 9 proteins in colorectal cancer.” Relating to the second project, he provides that scientific work analyzed new therapeutic options and targets for glioblastoma multiforme. He indicates the results of these projects were published, respectively, in *The Protein Journal* and the *International Journal of Oncology*.

The letters considered above, solicited from the Petitioner’s colleagues at [redacted] [redacted] for Oncology, and [redacted] primarily contain attestations of the significance of the Petitioner’s research studies without providing specific examples of original contributions that rise to a level consistent with major significance. Letters that specifically articulate how a petitioner’s contributions are of major significance to the field and its impact on subsequent work add value.⁵ Letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.⁶

⁵ See 6 USCIS Policy Manual, *supra*, at F.2(B)(2).

⁶ See 6 USCIS Policy Manual, *supra*, at F.2(B)(2).

USCIS need not accept primarily conclusory statements. *1756, Inc. v. Attorney General*, 745 F. Supp. 9, 15 (D.D.C. 1990).

The authors' assertions in the above-referenced letters do not explain how the Petitioner's research findings have been widely implemented or relied upon by others in the field, or explain how his research findings have already made a "major contribution and have great significance to the development of health care," as asserted. Simply stating that the work is important or that it has potential to majorly impact the field in the future is not sufficient. Without additional detail explaining his accomplishments relating to new or innovative techniques or findings, the letters discussed above do not establish that the Petitioner's research has had a demonstrable impact in his field commensurate with a contribution of major significance.

In addition to the submitted expert opinion letters, the Petitioner references his overall citation record, provides copies of articles that include what he considers to be notable citations to his work, and submits the ranking of the journal that has published his most-cited work. Regarding his citations, within his initial submission the Petitioner provided evidence from Google Scholar reflecting his 20 scholarly publications have received 31 cumulative citations. Specifically, the record shows that his two most-cited articles at the time of filing received 9 (*The Protein Journal*) and 6 (*Oncogenesis*), citations, respectively.⁷

Generally, citations to a given article can serve as an indication that the field has taken interest in a petitioner's work; however, the fact that a petitioner has published articles that other researchers have referenced is not, by itself, sufficient to establish that he meets this criterion. Rather, the appropriate analysis is to determine whether a petitioner has shown that his findings, factoring in citations and other corroborating evidence, have been considered important at a level consistent with original contributions of major significance in the field.

We acknowledge, however, that a petitioner may present evidence that his articles "have provoked widespread commentary or received notice from others working in the field, or entries (particularly a goodly number) in a citation index which cite [his] work as authoritative in the field, may be probative of the significance of [his] contributions to the field of endeavor."⁸ Here, the Petitioner did not explain how the noted citation rates demonstrate that his research was considered to be an original scientific contribution of major significance, and the referenced expert opinion letters did not discuss these individual publications and their impact within the field. Rather, a review of the submitted articles that reference the Petitioner's research does not show the significance of his contributions to the overall field beyond the authors who cited to his work.

For instance, the Petitioner provided an article entitled "[redacted]" published in *Cancers* in 2022, in which the authors cited to his most-cited article.⁹ However, the article does not distinguish or highlight the Petitioner's written work from that of the other 182 cited papers, or support his claim that his research has had a major impact on other researchers. In fact, the authors' citations indicate that the Petitioner's research

⁷ The Petitioner's remaining 18 articles each garnered between 0 and 3 citations.

⁸ See 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2).

⁹ Although we discuss a sample article referencing the Petitioner's work, we have reviewed and considered each one.

group was one of three groups who have confirmed that increased levels of [redacted] were shown to be a marker for nonmetastatic colon cancer. This evidence confirms that others, in the United States and abroad, were able to build upon the Petitioner's work and apply it to their own research. But it does not show that the impact of his work on the overall field of oncology rises to the level of an original contribution of major significance.

We also acknowledge the Petitioner's claim that his most-cited work was published in a journal with a high ranking based on its impact factor. However, a publication's high ranking or impact is reflective of the publication's overall citation rate. It does not demonstrate the influence of any particular author within the field, how an author's research impacted the field, or establish a contribution of major significance in the field. That context must be provided by other evidence in the record.

Considered together, the evidence consisting of the citations to the Petitioner's published findings and the reference letters from his fellow oncology physicians establishes that the Petitioner has been a productive researcher. This evidence also shows that his published data and findings have been relied upon by others in their own research, and perhaps impacted treatment protocol in the hospital where he is employed. It does not demonstrate that the Petitioner has made an original contribution of major significance in the field of oncology. Therefore, he has not met 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 acclaim and recognition 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. U.S. Citizenship and Immigration Services 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). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). The Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.