



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

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

In Re: 33376444

Date: SEPT. 10, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a civil engineer, seeks classification as an individual of extraordinary ability. 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 Texas Service Center denied the petition, concluding that the Petitioner did not submit sufficient evidence establishing that he had satisfied at least three of the ten evidentiary criteria for this classification as set forth in the regulations. Namely, the Director determined that the Petitioner satisfied the requirements of the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), which require evidence that he participated as a judge of the work of others in field and evidence that he wrote scholarly articles that were published in major trade publications, respectively. However, the Director concluded that the Petitioner did not demonstrate that he met the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(i), which requires evidence that the Petitioner received a lesser nationally or internally recognized prize or award, or the criterion at 8 C.F.R. § 204.5(h)(3)(v), which requires evidence that that the Petitioner made original scientific or scholarly contributions of major significance in his field.¹

On appeal, the Petitioner disputes the adverse decision, arguing that the Director did not properly assess the submitted evidence. Regarding the criterion at 8 C.F.R. § 204.5(h)(3)(i), the Petitioner refers to previously submitted evidence to support his explanation that the [redacted] [redacted] “is the governing body that, by law, [redacted] The Petitioner contends that the Director incorrectly assessed the role of the [redacted] as pertaining to only a sector of Peruvian engineers.

We agree that previously submitted evidence supports the Petitioner’s assertions. Namely, the record contains a copy of the award certificate showing that in [redacted] 2022 the Petitioner was awarded the [redacted] medal by the National Council of the [redacted] in

¹ The Petitioner claimed that he met a total of the four criteria listed at 8 C.F.R. § 204.5(h)(3)(i) and (iv) – (vi).

recognition “for his outstanding professional work in the practice of engineering in the country.”² The record also contains other supporting evidence, such as: 1) a photograph of the medal itself; 2) a May 2022 letter from the “National Dean” representing the National Council of the [REDACTED] confirming that the Petitioner was the recipient of the referenced national award; and 3) a corresponding June 2022 resolution from the National Council of the [REDACTED] stating that pursuant to “the Statute of the [REDACTED]” it is “the responsibility of the [REDACTED] to establish honorary distinctions to recognize and reward collegiate engineers who have exceptionally stood out in their professional practice or to people who have provided significant services to the [REDACTED]”³

In addition, the Petitioner provided certified translations of the evaluation criteria used to determine the recipients of the award in question. Some of the factors considered include the prospective recipients’ academic achievements, professional experience, contributions to engineering, and distinctions in engineering “for professional practice in Engineering granted by [REDACTED] or “for professional practice in engineering granted by other national or international organizations.”

In light of the evidence submitted, we conclude that the Petitioner has demonstrated that he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(i), which related to a lesser nationally or internally recognized prize or award. With eligibility under the three criteria discussed above, the Petitioner satisfied part one of the two-step adjudicative process described in *Kazarian* and has overcome the sole basis for the denial of his petition. Accordingly, we will withdraw the Director’s decision. Because the Petitioner has met the initial evidence requirements of at least three criteria, it is unnecessary to discuss any additional eligibility claims relating to the regulatory provisions at 8 C.F.R. § 204.5(h)(3)(i)-(x).

However, granting three initial criteria does not suffice to establish eligibility for the classification the Petitioner seeks or establish that the record supports the approval of the petition. Where a petitioner demonstrates that the beneficiary meets these initial evidentiary 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*, 596 F.3d at 1115, section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3). The Director did not reach a finding on the final merits, and we decline to make the final merits determination in the first instance. We will therefore remand the matter for the Director to issue a new decision, including a final merits determination.

² Pursuant to USCIS Policy Manual, submission of certain awards from well-known national institutions or well-known professional associations are examples of the types of awards that may satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(i). *See* 6 USCIS Policy Manual, F.2(B)(1), <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

³ Each of the mentioned foreign documents is accompanied by a full English language translation containing a translator’s certification that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3). However, the record also contains two documents that appear to contain articles that comprise the referenced statute and are only partially translated into English. One document is part of Exhibit E of the initially submitted evidence and purports to translate the document’s title and Article 3.07 of the statute; the other document has been submitted on appeal and purports to translate Article 1.05 of the same statute. Neither document is accompanied by a full English language translation containing a translator’s certification as to the translation’s completeness and accuracy and therefore we cannot meaningfully determine whether these documents are accurate and support the Petitioner’s claim. If the Petitioner seeks consideration of these two foreign documents, he must comply with the listed regulatory requirements.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.