U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41502055

Date: APR. 06, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a chief executive officer (CEO) and researcher in the field of inhaled drug delivery, seeks classification as an alien 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.

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner satisfied the initial evidentiary requirements for this classification but did not establish, as required, that he has sustained national or international acclaim and is among the small percentage at the very top of his field. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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 to 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

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. at 376.

II. ANALYSIS

Because the Petitioner has not indicated or established that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claimed to have satisfied seven of these criteria and SCOPS determined he met five, relating to published materials, judging, contributions, authorship, and leading or critical role.[1] *See* 8 C.F.R. § 204.5(h)(3)(iii), (iv), (v), (vi), and (viii). Therefore, SCOPS proceeded to a final merits determination.

Given the structure of the regulations and the two-step analysis described in *Kazarian*, the satisfaction of three evidentiary criteria alone does not automatically or presumptively establish eligibility. In a final merits determination, we evaluate whether a petitioner has demonstrated, by a preponderance of the evidence, their sustained national or international acclaim,[2] that they are among the small percentage at the very top of his field of endeavor, and that their achievements have been recognized in the field through extensive documentation. Therefore, we analyze an individual's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate

[1] SCOPS determined the Petitioner did not satisfy the criteria relating to awards and memberships. *See* 8 C.F.R. § 204.5(h)(3)(i) and (ii).

[2] *See generally* 6 *USCIS Policy Manual* F.2(A)(1), https://www.uscis.gov/policy-manual (stating that the definition of "sustain" is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time").

extraordinary ability in 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.[3] Here, SCOPS concluded that, although the Petitioner met the initial evidence requirements, he did not show he garnered sustained national or international acclaim and that he is among that small percentage who have risen to the very top of the field.

On appeal, the Petitioner contends that the record is sufficient to establish, by a preponderance of the evidence, his extraordinary ability in the field of inhaled drug delivery. He asserts that SCOPS minimized and mischaracterized the weight of the evidence. We evaluate the totality of the evidence, based on the documentation presented to SCOPS, in the context of the final merits determination. After reviewing the Petitioner's appellate claims and the remaining record, we agree with SCOPS that he has not shown sustained national or international acclaim or that he is eligible for this immigration benefit.

The record indicates the Petitioner has a master's degree in industrial engineering and management from [redacted] and a bachelor's degree in engineering from the [redacted] He established his medical device company [redacted] in 2014 with three other individuals. The company is known for its mesh nebulizer technology, which has been incorporated in nebulization systems such as [redacted]

The Petitioner has published materials about himself and his company, has judged the work of others in his field through the peer review process, has original contributions of major significance in his field, has authored scholarly articles in professional publications, and performed in a leading or critical role. However, in considering the totality of the evidence, the Petitioner has not demonstrated that his achievements to date reflect a "career of acclaimed work in the field" as contemplated by Congress at H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). Nor has he shown that he has risen to that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here the Petitioner has not established that he meets these very high standards. *See Amin v. Mayorkas*, 24 F.4th at 386-87 (stating that the narrow definition reflects the stringency of the extraordinary ability standard).

The Petitioner provided evidence reflecting his receipt of five awards from 2001 to 2021. Although the awards may show some recognition of his work from the field, the Petitioner did not demonstrate how they indicate that he is one of that small percentage who has risen to the very top of the field of endeavor. For instance, the Petitioner did not provide information about the awards such as the criteria for the awards and the expertise of the judges such that the Petitioner has established that these awards are for excellence in the field of inhaled drug delivery. Notably, the 2021 [redacted] was issued to the company and not the Petitioner. Here, the Petitioner did not show the significance of the awards and how they place him among that small percentage at the very top of the field. *See Hamal*

[3] *See generally* 6 *USCIS Policy Manual* F.2(B)(2) (stating that USCIS officers should evaluate the evidence together when considering the petition in its entirety to determine if a petitioner has established by a preponderance of the evidence, the required high level of expertise required for this immigrant classification).

v. U.S. Dep't of Homeland Sec., No. CV 19-2534 (RC), 2021 WL 2338316, at *4 (D.D.C. June 8, 2021), *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (upholding plaintiff did not contextualize his awards throughout his career to show sustained national or international acclaim).

Furthermore, the Petitioner provided evidence of his membership with The International Society for Aerosols in Medicine (ISAM) in 2025, The American Thoracic Society (ATS) in 2025, and the European Respiratory Society (ERS) in 2018. However, the Petitioner did not show how his memberships resulted in sustained national or international acclaim or reflected that small percentage who has risen to the very top of the field of endeavor. *See Donskoy v. United States Citizenship & Immigr. Servs.*, No. 21-CV-04757-CRB, 2021 WL 5240224, at *5 (N.D. Cal. Nov. 11, 2021) (upholding the petitioner's membership did not demonstrate the requisite level of achievement or sustained acclaim to establish extraordinary ability). The record, for instance, does not contain evidence indicating that he received national or international recognition based on his memberships with ISAM, ATS, or ERS. In addition, the Petitioner did not establish that he distinguished himself from others in the field based on his memberships with ISAM, ATS, and ERS, gaining national or international attention or placing him among the upper echelon in his field.

Regarding published materials, the Petitioner offered over 30 articles covering 2017 to 2025. While the published materials indicate some attention to him and his work, the Petitioner did not establish that such reporting is consistent with a level of success among that small percentage who has risen to the very top of the field of endeavor, has achieved sustained national or international acclaim, or has a career of acclaimed work. The Petitioner, for instance, did not show how the amount of his media coverage compares to others in his field who are among the very top. He did not demonstrate how his press coverage reflects a career of acclaimed work in the field or a very high standard to present more extensive documentation than that required. Moreover, some of the articles only discuss the Petitioner's company and include a photo of the Petitioner. *See Kinuthia v. Rosenberg*, No. CV 17-10255-LTS, 2018 WL 1243955, at *5 (D. Mass. Mar. 8, 2018), *aff'd sub nom., Kinuthia v. Velarde*, No. 18-1244, 2019 WL 11671989 (1st Cir. July 3, 2019), *cert. denied*, 140 S. Ct. 2643, 206 L. Ed. 2d 714 (2020) (finding it is not enough that the applicant is pictured or mentioned in the publication).

Relating to the Petitioner's service as a judge of the work of others in his field, an evaluation of the significance of his experience is appropriate to determine if such evidence is indicative of the extraordinary ability required for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22.[4] Participation in the peer review process does not automatically demonstrate that an individual has sustained national or international acclaim. The Petitioner provided documentation showing that he reviewed one master's degree dissertation while on the oral defense committee for the [redacted] in 2018. However, he did not show how reviewing one dissertation over a seven-year period demonstrates or contributes to his sustained national or international acclaim in the field of inhaled drug delivery. Further, the Petitioner did not demonstrate how his judging experience compared to others in his field, show the significance of conducting one review over the course of his 15-year career, or otherwise provide context regarding his service as a peer reviewer.

[4] *See also generally* 6 *USCIS Policy Manual* F.2(B)(1) (providing that the second step requires USCIS to evaluate the person's judging participation to determine whether it was indicative of the person being of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

See Hamal v. United States Dep't of Homeland Sec., No. 21-5160, 2023 WL 1156801, at *2 (D.C. Cir. Jan. 31, 2023) (finding the petitioner did not provide needed context for his judging experience and the response to his work).

Likewise, authorship and publication do not automatically place one at the top of the field.[5] The Petitioner claims he authored three scholarly publications. In support, he provided a Google Scholar printout showing three publications from 2001, 2002, and 2005. He also submitted evidence of two publications not listed on Google Scholar. Notably, the Google Scholar printout shows that none of the three publications were cited. Furthermore, the publications appear to be about e-government and not the field of endeavor, inhaled drug delivery. Here, the Petitioner did not demonstrate that his publication record is consistent with having a career of acclaimed work, sustaining national or international acclaim, and being among the small percentage at the very top of his field. The Petitioner, for instance, did not show the significance of the number of his authorships or how his publication record compares to others who are viewed to be at the very top of the field. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (finding it reasonable for USCIS to focus on the fact that a publication record of six publications over seven years inconsistent with a career of acclaimed work and sustained national or international acclaim).

In support of his contributions, the Petitioner offered evidence of obtaining 39 patents involving nebulization technologies, which have been incorporated into [redacted] The Petitioner also provided evidence that some of these technologies have been sold in Taiwan, China, Ireland, and the United States, and that his company received some press coverage. Although the evidence indicates the originality of his work, the Petitioner did not establish that his contributions garnered him national or international acclaim. For instance, the Petitioner did not establish that his technologies have made a major impact in the field of endeavor as a whole. Evidence that the person's work was funded, patented, or published, while potentially demonstrating the work's originality, will not necessarily establish, on its own, that the work is of major significance to the field. *See generally 6 USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Moreover, in support of contributions, the Petitioner states that he was invited to speak and present at conferences. However, the Petitioner did not demonstrate that any of his presentations resulted in contributions of major significance in the field. *See Kazarian v. U.S. Citizenship & Immigr. Servs.*, 580 F.3d 1030, 1036 (9th Cir. 2009), aff'd in part, 596 F.3d 1115 (9th Cir. 2010) (finding publications and presentations alone are not sufficient to demonstrate major significance).

On appeal, the Petitioner highlights a letter from NebuFlow. The record also includes four additional reference letters.[6] The letters, however, are not sufficiently persuasive. The letters generally highlight the Petitioner's work. For example, the letter from NebuFlow discusses the Petitioner's company and its products, as well as his memberships with ISAM, ATS, or ERS. Moreover, the letter from [redacted] discusses the Petitioner's education, work experience, conference attendance, awards, and his [redacted] nebulizer. Letters that make general and expansive statements regarding the beneficiary and the beneficiary's accomplishments are generally not persuasive. *See generally 6 USCIS Policy Manual* F.2(B)(3). The letters do not claim,

[5] *See also generally 6 USCIS Policy Manual* F.2(B)(1) (indicating that the second step requires USCIS to evaluate the person's publications to determine whether it is indicative of being one of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

[6] G-P- letter is not on letterhead and the last page was not included.

nor does the content show, that the Petitioner achieved national or international acclaim from the field. Moreover, the letters do not demonstrate that the Petitioner has attracted a level of attention placing him at the very top of his field. In addition, the letters do not show that he has enjoyed a career of acclaimed work. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (finding testimonial letters were insufficient to establish his relative status in the field and do not compare him to others).

Here, the letters do not contain sufficient information and explanation to show that the Petitioner is viewed by the overall field, rather than by a solicited few, among the upper echelon or that he has garnered recognition on a national or international scale, consistent with being among the small percentage at the very top of the field of endeavor. *Mishra v. Richardson*, No. 120CV991LMBTCB, 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding that none of the plaintiff's letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim). Although the letters highlight the Petitioner's work, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding the submitted letters failed to establish the plaintiff's contributions resulted in significant acclaim).

Finally, while the record shows that the Petitioner is the CEO and co-founder of [redacted] the Petitioner did not demonstrate that his role was reflective of, or resulted in, widespread acclaim from his field or that he is considered to be the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). As discussed above, the awards, patents, and media articles do not indicate that the Petitioner has received the level of acclaim and recognition in the field that would place him amongst the very few at the top of his field. The Petitioner asserts on appeal that his investment agreements and partnerships with pharmaceutical companies establish his national or international acclaim. But the Petitioner did not show that he garnered acclaim or extensive recognition from the field based on his leadership, representing sustained national or international acclaim or a career of acclaimed work in the field. *See* H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A).

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought.[7] Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Amin v. Mayorkas*, 24 F.4th at 394 (stating that extraordinary ability is such an elite level of accomplishment); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that EB-1 visa are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. *See* Section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification

[7] *See generally 6 USCIS Policy Manual* F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence).

sought, the record is insufficient to demonstrate that he is among the small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.