U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41957890

Date: APR. 7, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a mechanical engineer, 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 did not satisfy at least three, as required, of the initial evidentiary criteria. 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

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). *See also Onaghise v. Dep't of*

Homeland Sec., No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) (holding that extraordinary ability visas are known as "Einstein" visas, are extremely "coveted," and are "reserved for only the most talented aliens"). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or 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. U.S. Citizenship & Immigr. Servs.*, 596 F.3d 1115, 1119-20 (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. U.S. Citizenship & Immigr. Servs.*, 772 F. Supp. 2d 1339, 1346 (W.D. Wash. 2011), *aff'd*, 683 F.3d 1030 (9th Cir. 2012).

Because the Petitioner has not claimed or established his receipt of a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS determined the Petitioner met only two (judging under 8 C.F.R. § 204.5(h)(3)(iv) and scholarly articles under C.F.R. § 204.5(h)(3)(vi)) of the five claimed categories of evidence.

As it relates to the awards criterion under 8 C.F.R. § 204.5(h)(3)(i), SCOPS stated that "[t]he petitioner submitted evidence she [sic] won awards from [redacted] for its employees . . . ." However, the record does not reflect the Petitioner claimed that he received any awards from [redacted] or that he was ever employed by [redacted]. In fact, the Petitioner asserted eligibility for this criterion based on a 2010 "[redacted]" (third prize) from the [redacted] and a 2018 "[redacted]" (third prize) from the [redacted], and the record does not show any involvement with [redacted].

Regarding the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii), SCOPS indicated that "[t]he petitioner refers to both publications as both major media and academic journals" without identifying "both publications." Moreover, SCOPS stated that "[t]he evidence submitted in support of the petition, depending on the source, describes the publication differently." However, SCOPS did not identify the evidence and sufficiently explain how the evidence or source "describes the publication differently."

As it pertains to the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v), SCOPS acknowledged the Petitioner's submission of letters, authorship of scientific articles, citation evidence, and peer review service, as well as his 25 national patents. Furthermore, SCOPS generally discussed the Petitioner's "research-driven" field and indicated an "approximately 114 citations to the [Petitioner's] work." However, the Petitioner did not claim to have 114 citations to his written work. Rather, the Petitioner asserted that his "patented technologies have been cited 114 times" and his

written work received "more than 1,700 times by peers."[1] Besides acknowledging the Petitioner's patents, SCOPS did not further elaborate and explain how his patents did not qualify as majorly significant contributions and confused his patent citations with his written citations.

Because SCOPS did not sufficiently address the Petitioner's claims and evidence, including referencing incorrect or inaccurate information, we will remand the matter to issue a new decision that addresses the Petitioner's particular claims and evidence. If SCOPS decides that the Petitioner does not fulfill any additional criteria satisfying at least criteria, then it must explain its determination by addressing the Petitioner's claims and evidence contained in the record. If SCOPS concludes that the Petitioner meets at least three criteria, then SCOPS must evaluate the totality of the evidence in the context of a final merits determination. *See Kazarian*, 596 F.3d at 1115.

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

[1] Citation numbers to individual papers is a more appropriate analysis to determine majorly significant contributions rather than aggregate citation figures for all published material, which tend to reflect an overall publication record.