U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42212429

Date: APR. 10, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur and inventor, requests classification under the employment-based, first-preference (EB-1) immigrant visa category 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). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition. SCOPS concluded that, contrary to the Act, the Petitioner did not demonstrate that he seeks to continue working in the United States in his field or that his work would substantially benefit the country. SCOPS also found that he did not meet any initial evidentiary criteria for the requested category. On appeal, the Petitioner contends that SCOPS misapplied evidentiary standards and misevaluated evidence.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we agree with SCOPS that he did not satisfy the requisite amount of evidentiary criteria. Wewe will therefore dismiss the appeal.

I. LAW

To qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability" in the sciences, arts, education, business, or athletics;
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the country as a permanent resident.

Section 203(b)(1)(A)(i-iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

Unless a petitioner received "a major, international recognized award," they must satisfy at least three of ten initial evidentiary criteria. 8 C.F.R. § 204.5(h)(3).[1] If a petitioner meets either evidentiary standard and the requirements at sections 203(b)(1)(A)(ii), (iii) of the Act, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination. To merit final approval, the record – as a whole – must establish a petitioner's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (establishing a two-step process for adjudicating extraordinary ability petitions); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner and His Field

The record shows that the Petitioner graduated from an industrial school in his home country of Moldova,[2] where he specialized in refrigeration equipment and automation systems. After working for a few years in Russia, he returned to Moldova where he started a furniture business with his twin brother. Although a regionwide economic crisis forced him and his brother to sell the business, they ultimately founded other companies in fields such as online commerce and construction. The Petitioner further developed scientific devices, obtained a patent, and worked for his region's government. Fearing that Russian security services would arrest him for his pro-Ukrainian and pro-European beliefs, he said he left Moldova in February 2022.

Now in Germany, the Petitioner states that he has several projects that he wants to develop in the United States, including a hydrogen generator prototype. He states that, if this petition is approved, he can build successful businesses in this country based on his inventions. He states: "Without exaggeration, your favorable decision will be historic! I am certain that this decision will change not only my future, but also America's."

B. The Evidentiary Criteria

The record does not indicate – nor does the Petitioner claim – his receipt of a major internationally recognized award. He therefore must meet at least three of the ten initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

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[1] If an evidentiary criterion does not "readily apply" to a petitioner's occupation, they may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

[2] The Petitioner is from Transnistria, which is officially known as the Pridnestrovian Moldavian Republic. Transnistria declared its independence from Moldova in 1990, but the international community has not recognized the region's independent statehood. *See, e.g.*, British Broadcasting Corp., "Transnistria profile," www.bbc.com/news/world-europe-18284837. On appeal, the Petitioner suggests that, in evaluating whether he satisfied the initial evidentiary criteria in this matter, SCOPS erred by not recognizing his Transnistrian background. He states that "the awards, media coverage, professional roles, and original contributions documented in the record must be assessed within the Pridnestrovian professional framework in which they arose, rather than being discounted by comparison to institutions or standards of a different jurisdiction [such] as [the] Republic of Moldova." The Petitioner, however, does not provide specific examples of the alleged discounting errors or explain how they allegedly prejudiced him.

SCOPS found that the Petitioner did not meet any of the eight evidentiary requirements he claimed to satisfy. On appeal, he contends that he met the following four evidentiary requirements:

- Receipt of nationally or internationally recognized prizes or awards for excellence in his field;
- Published material about him and his work in professional or major trade publications or other major media;
- Participation as a judge of others' work in his field; and
- Original contributions of major significance in his field.

8 C.F.R. § 204.5(h)(3)(i), (iii), (iv), (v).

The Petitioner does not appeal SCOPS' denials on the four other evidentiary criteria. *See* 8 C.F.R. § 204.5(h)(3)(ii), (vii), (viii), (ix). He has therefore waived his right to challenge those findings. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citation omitted).

To satisfy initial requirements, the Petitioner's evidence must objectively meet the parameters of the applicable regulatory descriptions. *See generally* 6 *USCIS Policy Manual* F.2(B). "[N]either USCIS nor [the] AAO [Administrative Appeals Office] may unilaterally impose novel substantive or evidentiary requirements beyond those set forth at 8 C.F.R. § 204.5." *Kazarian*, 596 F.3d at 1121.

1. Nationally or Internationally Recognized Awards

This criterion requires "documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." 8 C.F.R. § 204.5(h)(3)(i).

When adjudicating this requirement, USCIS first determines whether a petitioner – as opposed to their employer or a company they own, for example – received prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion One. If so, USCIS then considers whether the awards received national or international recognition and were issued for excellence in the relevant field. *Id.*

The Petitioner submitted copies of a certificate, and a transcript and photographs from a television program, demonstrating that he won a $15,000 grant in a 2014 competition for start-up businesses. He states that, out of 344 total business plans, his was one of 15 selected for a grant in the international competition, which was organized by the European Union and the United Nations Development Program.

As SCOPS found, however, the Petitioner has not demonstrated that the award generated national or international recognition. He described the competition as "international" and stated that his award received "extensive coverage on all public and private TV and radio channels." But the record lacks objective evidence that the media coverage was national or international in scope. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 136 (D.D.C. 2013) ("Without evidence of how a larger audience viewed Plaintiff's awards, there was no way for the agency to evaluate whether those awards were recognized widely enough to satisfy this criterion.")

The Petitioner also claimed that, in a similar contest for start-up businesses in 2019, his proposal for a water purification company placed first in Moldova. He stated that, in the contest's following part, his proposal competed internationally against start-up plans from entrepreneurs in 144 other countries.

The record, however, contains insufficient evidence to confirm the Petitioner's receipt of the claimed 2019 award, or its generation of national or international recognition. He submitted copies of photos, one of which shows him and another person holding an award. But, in the photo, the words on the award are illegible. The other photo shows the Petitioner and others cheering, purportedly during the award's announcement. The evidence lacks sufficient details to confirm his receipt of the claimed award. *See Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *8 (N.D. Cal. Feb. 16, 2021) (affirming USCIS' finding of insufficient evidence to meet this criterion where "there was no 'primary' evidence of the awards").

The Petitioner has not submitted documentation establishing his receipt of nationally or internationally recognized awards for excellence in his field. We will therefore affirm SCOPS' finding.

2. Judging Others' Work

To meet this requirement, a petitioner must submit "[e]vidence 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 submitted evidence that he served on government commissions and work groups regarding small businesses and related issues. SCOPS concluded: "The evidence provided does not show that the petitioner has been invited to judge the work of others, and there is no evidence to establish that the petitioner actually participated in the judging of the work of others."

In response to SCOPS' request for additional evidence, the Petitioner had argued that, "[i]n the context of EB-1A requirements, 'judging' includes formal expert assessment, criticism, and the formulation of conclusions regarding legislative, regulatory, and programmatic initiatives developed by other individuals or government bodies." He gave examples of when, as a member of government panels, he purportedly criticized laws or proposals.

The Petitioner's examples indicate that, as a member of commissions and work groups, he criticized government officials or their work. But the criterion requires evidence that he judged others "in the same or an allied field." *See* 8 C.F.R. § 204.5(h)(3)(iv). The record identifies the Petitioner as an entrepreneur, businessman, and inventor. The evidence does not demonstrate that, as a member of government commissions and work groups, he judged the work of other entrepreneurs, businesspeople, or inventors, or members of an allied field.

The Petitioner has not submitted evidence that he judged others' work in the same or an allied field. We will therefore affirm SCOPS' finding regarding this requirement.

C. The Remaining Issues

The Petitioner has not met two of the four evidentiary criteria he claims to have satisfied on appeal. Thus, he cannot meet the requisite amount of three evidentiary criteria. We therefore need not reach and hereby reserve consideration of his arguments that he:

- Satisfied two other evidentiary criteria;
- Demonstrated his intent to continue working in his field in the United States;
- Established that his work would substantially benefit the country; and
- Demonstrated overall exceptional ability in his field in a final merit determination.

See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

III. CONCLUSION

The Petitioner did not meet the requisite number of initial evidentiary criteria for the requested immigrant visa category. We will therefore affirm the petition's denial.

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 who are 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.