U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41967446

Date: APR. 10, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Advanced Degree)

The Petitioner, a nicotine manufacturer, seeks classification for the Beneficiary as an individual of exceptional ability in the sciences for employment as a director of product development. *See* Immigration and Nationality Act (the Act) section 203(b)(2)(A), 8 U.S.C. § 1153(b)(2)(A). This employment-based second preference (EB-2) classification makes immigrant visas available to aliens with a degree of expertise significantly above that normally encountered in the sciences, arts, or business. *Id.* The Petitioner also seeks designation under 20 C.F.R. § 656.5, Schedule A, Group II.

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish the Beneficiary's eligibility for Schedule A designation as an individual of exceptional ability with widespread acclaim and international recognition. The matter is now before us on appeal pursuant to 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

Second preference immigrant visas are available for qualified individuals who are advanced-degree professionals or who, because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2) of the Act.

Every petition under this classification must include one of the following three documents: (1) an individual labor certification (Form ETA-9089) from the U.S. Department of Labor (DOL), (2) an application for Schedule A designation, or (3) documentation to establish that the beneficiary qualifies for one of the shortage occupations in the DOL's Labor Market Information Pilot Program. 8 C.F.R. § 204.5(k)(4)(i).[1]

[1] USCIS also has discretion to excuse job-offer and labor certification requirements if an EB-2 petitioner demonstrates that

DOL has already determined that the United States lacks sufficient workers for certain occupations, as well as other jobs requiring exceptional ability. 20 C.F.R. § 656.5. DOL has pre-determined that the employment of foreign workers in these Schedule A jobs would not harm the wages or working conditions of U.S. employees in similar positions. *Id.* As prospective employers of Schedule A workers need not advertise their offered jobs to U.S. workers, DOL authorizes USCIS to adjudicate Schedule A applications in petition proceedings. 20 C.F.R. § 656.15(a). Thus, here, USCIS rules not only on the petition but also on its accompanying Schedule A application. *See* 20 C.F.R. § 656.15(e) (describing USCIS Schedule A determinations as "conclusive and final").

Schedule A, Group II designation requires that a petitioner submit evidence of the beneficiary's exceptional ability in the sciences or arts as demonstrated by widespread acclaim and international recognition from recognized experts in his or her field. 20 C.F.R. § 656.15(d)(1). In addition, the petitioner must provide evidence meeting at least two of seven criteria (for example awards, memberships, published material, and contributions). *Id.* at (i)-(vii). Beyond demonstrating widespread acclaim and international recognition, the documentation presented must show that the position the beneficiary has worked in the year prior to filing, and the one sought, both require an individual of exceptional ability. *Id.* As with any filing for an employment-based immigrant that requires an offer of employment, this petition must be accompanied by evidence that the prospective U.S. employer has the ability to pay the proffered wage. 8 C.F.R. § 204.5(g)(2).

II. ANALYSIS

The Petitioner indicated on Form ETA-9089, Application for Permanent Employment Certification, that it seeks to employ the Beneficiary as a director of product development. The Form ETA-9089 states that the minimum requirements for the offered position are a master's degree or higher in pharmaceutical sciences, chemistry, or a related field, and 10 years of experience in research and development.[2] The Petitioner also stated that the offered position requires various special skills.

The record demonstrates that the Beneficiary holds a master of pharmacy degree from India awarded in 2007. An evaluation of the Beneficiary's academic records states that he has attained the equivalent of a master of science in pharmaceutical sciences from an accredited institution of higher education in the United States. The record also demonstrates that the Beneficiary has more than ten years of experience in research and development of tobacco and nicotine products. He has been director of research and development with the Petitioner since July 2021, "developing new processes under pharmaceutical conditions for creating synthetic nicotine products, replacing natural products and creating new projects involving complex delivery devices/products; including gums, e-liquids and polymer-based systems for nicotine and other actives."

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waiver of these U.S.-worker protections would be "in the national interest." Section 203(b)(2)(B)(i) of the Act. This petition, however, does not request a national interest waiver.

[2] The Petitioner's labor certification incorporates the offered job's requirements as listed on the prior application for a prevailing wage determination (PWD). *See* 20 C.F.R. § 656.40(a); *see generally* 6 *USCIS Policy Manual* E.6(A)(2) ("DOL no longer uses Form ETA-9089 to collect information about the minimum requirements of the job opportunity. Instead, employers now provide that information on the Application for Prevailing Wage Determination (Form ETA-9141).")

To obtain Schedule A designation for a noncitizen of exceptional ability, a petitioner must submit documentary evidence:

- Meeting at least two of seven listed requirements;
- Showing that a beneficiary has received "widespread acclaim and international recognition . . . by recognized experts" in their field; and
- Demonstrating that their work in the field during the past year and their intended U.S. work require exceptional ability.

20 C.F.R. § 656.15(d)(1).

SCOPS determined that the Beneficiary qualified as a member of the professions holding an advanced degree. SCOPS also determined that the Beneficiary met two of the seven criteria at 20 C.F.R. § 656.5(b)(1). SCOPS denied the petition, however, because it found insufficient evidence of the Beneficiary's purported widespread acclaim and international recognition.[3]

1. The Evidentiary Criteria

The record supports SCOPS' determination that the Petitioner met two of the seven criteria by submitting evidence of the Beneficiary's participation as a judge of others' work in his field and his authorship of scholarly articles in the field in international journals. *See* 20 C.F.R. § 656.15(d)(1)(iv), (vi). On appeal, the Petitioner notes that it submitted evidence for five of the seven criteria. Although the Petitioner disputes SCOPS' decision that it did not submit sufficient evidence to establish the Beneficiary's original scholarly research contributions of major significance in the field under 20 C.F.R. § 656.15(d)(1)(v), it states that the appeal "is limited to the reviewing officer's finding that [the Beneficiary] has not achieved widespread acclaim or international recognition" in the field.

Because the Beneficiary met the minimum amount of required evidentiary criteria, however, we need not determine whether he satisfied others. *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). We therefore decline to address additional evidentiary criteria individually that the Petitioner claims the Beneficiary satisfied, but will consider the other criteria to the extent they may, or may not, impact the Beneficiary's widespread acclaim and international recognition.

2. Widespread Acclaim and International Recognition by Recognized Experts

As noted above, SCOPS determined that the record contained insufficient evidence of the Beneficiary's purported widespread acclaim and international recognition. On appeal, the Petitioner

[3] SCOPS did not address whether the Beneficiary's work in the field during the past year and his intended U.S. work require exceptional ability. However, because we otherwise conclude that the Petitioner did not establish the Beneficiary's eligibility for Schedule A, Group II classification, the petition cannot be approved. As such we will reserve our determination on this element of eligibility and will not address it further in this decision. This should not be construed as agreement that the Petitioner has satisfied this requirement. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

asserts that SCOPS failed to properly consider expert opinion letters in the record that they claim demonstrate the Beneficiary's widespread acclaim and international recognition. The Petitioner further asserts that SCOPS failed to consider the evidence "as a whole" in its analysis.[4] Upon de novo review, we conclude that the record supports SCOPS' determination of insufficient evidence of the Beneficiary's claimed widespread acclaim and international recognition.

As SCOPS correctly noted, the Petitioner did not submit evidence of the Beneficiary's receipt of internationally recognized prizes or awards for excellence in his field, or of a display of his work at any artistic exhibitions.

The Petitioner submitted evidence of the Beneficiary's membership in the Cooperation Centre for Scientific Research Relative to Tobacco and general information about the organization's mission. However, as SCOPS noted, the record does not include evidence outlining the admission requirements or otherwise explaining how the Beneficiary's membership demonstrates widespread acclaim and international recognition.

The record includes an interview with the Beneficiary published in a professional journal, and a letter from the publication's editor-in-chief. The editor's letter states that the journal "is a leading global trade publication dedicated to the tobacco industry ... With a circulation of nearly 6000 copies per issue," to reach a professional audience in over 80 countries. The editor states that the interview was published in the [redacted] (2025) issue, which is after this petition was filed on June 23, 2025. A petitioner must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12). On appeal, the Petitioner does not claim or provide additional evidence that a single published interview with the Beneficiary demonstrates his widespread acclaim and international recognition.

SCOPS acknowledged the Beneficiary's participation as a reviewer of others' work in the field but noted that the record does not demonstrate that the Beneficiary's role as a reviewer reflects international recognition. The record demonstrates that the Beneficiary conducted 10 peer reviews of articles published in a professional journal, and four peer reviews of articles not yet published at the time of filing the petition. In many scientific and academic fields, peer review is a routine part of the process through which articles are selected for publication or presentation at conferences. Participation in the peer review process does not automatically demonstrate that an individual has widespread acclaim or international recognition. Here, the Petitioner has not established that the level of the Beneficiary's participation as a peer reviewer is indicative of widespread acclaim and international recognition in his field.

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[4] We note that SCOPS' decision describes its conclusion regarding evidence of the Beneficiary's purported acclaim and international recognition as a "final merits determination." USCIS makes final merits determinations when considering a beneficiary's eligibility as an alien of exceptional ability for EB-2 classification purposes. *See* 6 *USCIS Policy Manual* F.5(b)(2), www.uscis.gov/policy-manual; *see also Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (similarly requiring a final merits determination as the last part in a two-step analysis of "extraordinary ability" under section 203(b)(1)(A) of the Act). A close review of the decision shows that SCOPS focused on the proper factors for exceptional ability under Schedule A: widespread acclaim; and international recognition. SCOPS' error in final merits terminology was therefore harmless. *See Zamorano v. Garland*, 2 F.4th 1213, 1228 (9th Cir. 2021) (applying "traditional administrative law principles," including the harmless error rule, when reviewing an agency's decision).

As previously indicated, the Petitioner demonstrated the Beneficiary's authorship of scholarly articles in his field. But, as SCOPS concluded, the Petitioner has not provided evidence of these articles' effects on the Beneficiary's field, such as the number of citations to his work and whether he has more citations than others in his field, factors that may indicate widespread acclaim or international recognition. Without such evidence, we are precluded from determining that the Beneficiary's publications have garnered him widespread acclaim and international recognition.

On appeal, the Petitioner states it has attached five published articles that it claims include citations to the Beneficiary's scientific articles. However, we note that the Petitioner submitted four articles, which cite to the Beneficiary's work, not five. One article, published in the journal *Intelligent Pharmacy*, was submitted in duplicate as two separate exhibits, and one copy of that duplicate article, labeled Exhibit 1 (Article 3), does not properly display the date and edition of the publication. The Petitioner does not explain how four citations to two of the Beneficiary's co-authored articles demonstrates his widespread acclaim and international recognition.

Similarly, while the Beneficiary's patents may reflect original scientific contributions to the field, the record does not demonstrate the major significance of these contributions, or that they have garnered the Beneficiary widespread acclaim and international recognition. The Petitioner provides a list of six patent filings to which the Beneficiary contributed, including for [redacted] and an orally [redacted]. The Petitioner's list describes some of the patents as "proprietary." A review of the patent filings in the record indicates that, while the Beneficiary is listed as one of multiple inventors, the patent applicants are the Beneficiary's employers. As SCOPS noted, this tends to demonstrate that the patents "added significant value to the company," but does not establish the Beneficiary's widespread acclaim and international recognition.

On appeal, the Petitioner references a letter from [redacted], director of regulatory affairs and product development with [redacted], in support of the claimed major significance of the Beneficiary's original contributions to the field. The letter states that the Beneficiary's patents "have directly supported the commercialization of critical therapeutic products," and that "the tangible impact of his contributions is reflected in the ... revenues" of his former employer. While we appreciate that the Beneficiary's inventions may have resulted in the development of commercially available and viable products that his employers sell for profit, the commercial value of these products does not equate to evidence of widespread acclaim and international recognition for the Beneficiary himself.

As evidence of the Beneficiary's purported acclaim and recognition, the Petitioner primarily relies on letters from other researchers in the field or related areas. On appeal, the Petitioner states that it provided eight letters from experts and asserts that SCOPS did not properly consider them as evidence of the Beneficiary's widespread acclaim and international recognition in the field of chemistry.

The letters describe the Petitioner's research on nicotine replacement therapy and development of nicotine products, as well as his development of rapidly disintegrating tablets and taste-masking technologies for pharmaceutical products. Several of the letters describe the Beneficiary's work as "pioneering," "groundbreaking," and "outstanding." The letters also discuss the Beneficiary's

expertise in regulatory compliance and his skills in preparing documentation for approval of the Food and Drug Administration.

We note that, of the eight individuals in the recommendation letters the Petitioner references, six of the individuals are former colleagues of, or collaborators with the Beneficiary. The remaining two letters represent a limited number of individuals who have knowledge of the Beneficiary's work in the field outside of his prior employment and past projects, rather than supporting his widespread acclaim and international recognition.

In response to SCOPS' request for evidence, the Petitioner provided an expert opinion letter from [redacted] of [redacted], dated September 2, 2025. [redacted] stated his opinion that the Beneficiary meets the exceptional ability criteria of original scientific contributions of major significance and participation as a judge of the work of others in the field. Throughout his opinion, [redacted] quotes extensively from the other support and recommendation letters in the record. However, as noted above, these letters are authored by former colleagues of, and collaborators with the Beneficiary rather than people who separately recognize the Beneficiary's work based on his widespread acclaim and international recognition.

With respect to [redacted]'s analysis of the Beneficiary's participation as a judge of the work of others, the opinion letter makes statements uncorroborated in the record. [redacted] states that the Beneficiary "has attended and been recognized at international Chemistry conferences," but the record does not name these conferences, or dates, or provide documentary evidence of the Beneficiary's recognition. [redacted] also states that the Beneficiary "has been invited to serve as an editorial board member for two journals" in his field, but the record does not include supporting documentary evidence of this invitation, or when the invitations occurred. Uncorroborated claims have no weight as evidence and cannot satisfy the Petitioner's burden of proof.

On appeal, the Petitioner submits a supplemental letter from [redacted], dated November 17, 2025, regarding the Beneficiary's eligibility as an individual of exceptional ability in the sciences. Just as in the initial letter, [redacted] discusses the Beneficiary's original contributions of major significance and his participation as a judge of the work of others. [redacted] again relies significantly on recommendation and support letters submitted by the Beneficiary's former colleagues and collaborators, and again makes unsupported statements regarding an invitation for the Beneficiary to serve on an editorial board.

As a matter of discretion, we may use opinion statements submitted by a petitioner as advisory. *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we will reject an opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Id.* We are ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility. *Id., see also Matter of D-R-*, 25 I&N Dec. 445, 460 n.13 (BIA 2011) (discussing the varying weight that may be given expert testimony based on relevance, reliability, and the overall probative value). Here, [redacted]'s advisory opinion is of little probative value as it does not meaningfully address the how the Beneficiary has widespread acclaim and international recognition, and instead only addresses what his former colleagues have described.

On appeal, the Petitioner asserts that SCOPS did not consider the evidence as a whole. The Petitioner cites to *Chursov v. Miller*, 1:18-CV-02886-PKS (S.D. NY 2019), stating that a "failure to adequately consider the totality of the submission was arbitrary and capricious." The Petitioner also relies on *Muni v. INS*, 891 F. Supp 440 (N.D. Ill. 1995) for its holding that the former Immigration and Naturalization Service acted without rational explanation and abused its discretion when it failed to weigh important factors and state its reasoning for denying relief is not persuasive. We are not bound to follow the unpublished decision of a United States district court in cases arising within the same district. *See Matter of K-S-*, 20 I7N Dec. 715 (BIA 1993).

In *Muni,* the court pointed to the failure to properly consider persuasive evidence that established eligibility as an abuse of discretion. Here, SCOPS' decision did discuss the evidence in the record relating to the Beneficiary's claimed acclaim and recognition and provided an explanation as to why it is not widespread and international. When USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor it is necessary for it to address every piece of evidence the Petitioner presents. *See, e.g., Ren v. USCIS*, 60 F.4th 89, 97 (4th Cir. 2023) ("[S]o long as [USCIS] has given reasoned consideration to the petition, and made adequate findings, we will not require that it address specifically each claim the petitioner made or each piece of evidence the petitioner presented."); *Osuchukwu v. INS*, 744 F.2d 1136, 1142-43 (5th Cir. 1984) ("[The Board of Immigration Appeals] has no duty to write an exegesis on every contention").

The record identifies the Beneficiary as a talented chemist and researcher in the pharmaceutical field. But the evidence does not demonstrate widespread acclaim and international recognition sufficient to establish him as an alien of exceptional ability for Schedule A designation purposes. We will therefore affirm SCOPS' denial of the Petitioner's Schedule A application.

As noted above, the Petitioner has not demonstrated the Beneficiary's receipt of sufficiently widespread acclaim and international recognition. Therefore, we need not reach and hereby reserve consideration of whether his past and future work in the field requires exceptional ability. *See Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

Upon review of the entire record, including evidence submitted on appeal, we conclude that the Petitioner has established that the Beneficiary meets the minimum requirements for the offered position and for classification as a member of the professions with an advanced degree. We further conclude that the Petitioner submitted evidence that the Beneficiary meets at least two of seven criteria set forth at 20 C.F.R. § 656.15(d)(1)(i)-(vii). However, we conclude that the record does not demonstrate that the Beneficiary has been accorded widespread acclaim and international recognition as required by the regulation. *Id.* Accordingly, the appeal is dismissed.

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.