U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42221246

Date: APR. 14, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a software development engineer in test, 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 (EB-1) classification makes immigrant visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their fields through extensive documentation.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish the Petitioner had satisfied at least three of ten initial evidentiary criteria. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner contends that SCOPS' decision contains errors of law and fact, imposed extra-regulatory evidentiary requirements, and failed to meaningfully address the evidence submitted. The Petitioner maintains that the evidence supports his eligibility for the EB-1 classification.

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 aliens 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) ("EB-1 petitions, nicknamed Einstein visas, are coveted visas reserved for only the most talented noncitizens with extraordinary ability in the sciences, arts, education, business, or athletics"). 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 recognition of the beneficiary's achievements in the field through a one-time achievement, that is, a major, internationally recognized award. If that petitioner does not submit this evidence, then they must provide sufficient 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). Additionally, if the criteria at 8 C.F.R. § 204.5(h)(3) do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility. 8 C.F.R. § 204.5(h)(4).

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 beneficiary 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).

II. ANALYSIS

The Petitioner obtained a bachelor's degree in computer science and engineering from [redacted] in India. The Petitioner previously worked as a software development engineer in test at [redacted] from 2017 to 2022 and as a software development engineer in test at [redacted] from 2022 to 2023 and at [redacted] from 2023 to July 2025. His present employment as a test automation device lab engineer at [redacted] began in August 2025.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has 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). SCOPS decided that the Petitioner did not satisfy any of the five claimed criteria relating to membership, judging, contributions, a leading or critical role, and a high salary at 8 C.F.R. §§ 204.5(h)(3)(ii), (iv), (v), (viii), and (ix), respectively. After reviewing all the evidence in the record, we conclude that the Petitioner has not demonstrated eligibility for this highly restrictive immigrant classification. While we may not address each piece of evidence individually, we have reviewed and considered each one.

1. "Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." 8 C.F.R. § 204.5(h)(3)(ii).

SCOPS determined that the Petitioner did not establish eligibility for this criterion. In the Petitioner's brief submitted on appeal, he did not contest the findings of SCOPS for this criterion or offer additional arguments. Therefore, the Petitioner abandoned this issue. *See Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885, at *1, *9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal). Accordingly, the Petitioner does not meet this criterion.

2. "Evidence 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 specialization for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iv).

SCOPS determined that the Petitioner did not establish eligibility for this criterion. A review of the record of proceeding, however, reflects that the Petitioner submitted sufficient documentary evidence establishing that he minimally meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iv). The record includes emails and reviewer certificates showing that the Petitioner has reviewed papers for conferences in his field or an allied field. Accordingly, the Petitioner meets this criterion.

3. "Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v).

SCOPS determined that the Petitioner did not establish eligibility for this criterion. In the Petitioner's brief submitted on appeal, he did not contest the findings of SCOPS for this criterion or offer additional arguments. Therefore, the Petitioner abandoned this issue. *See Sepulveda v. U.S. Att'y Gen.*, 401 F.3d at 1228 n. 2; *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885, at *9 (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal). Accordingly, the Petitioner does not meet this criterion.

4. "Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii).

In order to fulfill this criterion, the Petitioner must first show that he has performed in a leading or critical role for an organization or establishment. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. For a leading role, we look at whether the evidence establishes that the Petitioner was a leader within the organization or establishment or a division or department thereof. *Id.* For a critical role, we look at whether the evidence establishes that the Petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *Id.*

Second, the Petitioner must establish that the organization or establishment for which he held a leading or critical role has a distinguished reputation. *Id.* The relevant size or longevity of an organization or establishment is not a determining factor but is considered together with other information to determine whether a distinguished reputation exists. *Id.* Other relevant factors for evaluating the reputation of an organization or establishment include the scale of its customer base or relevant media coverage. *Id.* USCIS Policy Manual interprets "distinguished" as "marked by eminence, distinction,

or excellence" or "befitting an eminent person" based on the definition of "distinguished" in *Merriam-Webster*'s online dictionary. *Id.*

The Petitioner claims that he satisfies this criterion because he has performed in a critical role for his former employers, [redacted] and [redacted]. The Petitioner asserts that he served as a software development engineer in test at [redacted] from 2017 to 2022 where he played a critical role in the launch of [redacted] in 2019. The Petitioner provided three internet articles published by *The Verge*, *Music Business Worldwide*, and *BBC* discussing [redacted]'s launch of a music streaming service, [redacted], in 2019. He also provided an employment verification letter from an [redacted] live support advisor and recommendation letters from several individuals. A letter from the principal technical program manager at [redacted] states that the Petitioner's "validation framework was essential to the successful and timely launch of [redacted] in key markets, including the U.S., U.K. and Japan." The letter further states that "[i]n recognition of his exceptional contributions to the launch of [redacted], [the Petitioner] was awarded the prestigious [redacted] Award in 2019." In addition, the Petitioner submitted information regarding [redacted] Awards, peer nominated awards presented at an [redacted] [redacted] meeting in recognition for employees who have delivered remarkable results, which meet a specific customer or business goal. A letter from a senior manager of product and engineering at [redacted] asserts that the Petitioner "was pivotal in enabling the launch and success of [redacted] [redacted]. He was responsible for architecting and delivering a novel, highly scalable audio quality validation system that could measure and verify audio quality parameters – such as bitrate, sampling frequency, and audio codec – across diverse devices and platforms." A director of engineering at [redacted] expresses that the Petitioner "extended the framework to include audio stream quality testing, which was crucial for the successful launch of [redacted]."

The Petitioner also asserts that he joined [redacted] in 2023 as a software development engineering in test, and he designed and developed the compliance-safe log sharing platform for internal cloud services managing data for its U.S. users. The Petitioner provided a job offer letter from [redacted]. A letter from an engineering manager at [redacted] explains that the Petitioner "designed a platform that incorporates a data redaction algorithm specifically designed to remove Personally Identifiable Information from logs while preserving essential troubleshooting information" and asserts that the Petitioner's "innovation has been game changing. It tackled a critical challenge for [redacted] of ensuring compliance with stringent government regulations while maintaining operational efficiency." The Petitioner also provided a news release by [redacted] on its website discussing its 12 billion euros investment in Europe to deliver [redacted], a security program designed to provide industry-leading protection for European user data.

Regarding the Petitioner's critical role in [redacted], the submitted documents do not sufficiently establish that he has performed in a critical role consistent with the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii). The internet articles showcase [redacted]'s music streaming service, [redacted]. The letters verify the Petitioner's employment and income and discuss his contributions to [redacted] through several projects. For example, a letter from the senior manager of product and engineering at [redacted] establishes that the Petitioner's scalable audio quality validation system was pivotal in enabling the launch of [redacted]. While the letters indicate the Petitioner's contributions to [redacted]'s launch of its music streaming service through his scalable audio quality validation system, they do not sufficiently establish how his roles were of

significant importance to the outcome or standing of [redacted] as a technology company. Most individuals working for an organization can have some impact on the organization through their work, but to satisfy this criterion, a petitioner must show that their work was critical to the success of the organization or its business activities. As the Petitioner was a software development engineer in test in a technology company, it is expected that he will perform the routine duties of a software development engineer in test by designing, building, and maintaining automated testing frameworks in order to support operations and business activities of the company. However, performing, even if the performance is considered noteworthy, as shown by the Petitioner's receipt of [redacted] Award, does not equate to a critical role. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1).

Moreover, if the Petitioner is claiming that he has performed in a critical role for [redacted], rather than [redacted] as a whole, he has not shown that [redacted] has a distinguished reputation. *See* 8 C.F.R. § 204.5(h)(3)(viii). When a beneficiary's role is leading or critical for a department or division of an organization, rather than for the entire organization, then the petitioner must establish a distinguished reputation of the department or division for which the beneficiary holds a leading or critical role. *See generally,* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The record includes Forbes' list of America's most reputable companies in 2017, listing [redacted] as the [redacted], Forbes' list of the world's most valuable brands in 2020, listing [redacted] as the [redacted], and Fortune 500 ranking of the biggest U.S. companies by revenue in 2025, listing [redacted] as the [redacted]. The Petitioner established that [redacted], as the entire organization, has a distinguished reputation. However, he did not submit, for example, documentary evidence distinguishing [redacted], as a division and streaming service owned by [redacted], from other audio entertainment services providers, so as to establish that it has a distinguished reputation pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii).

With respect to his critical role in [redacted]'s internal news release shows its efforts to provide protection for user data in Europe, which is not relevant to the Petitioner's past work for [redacted] in the United States. The letters verify the Petitioner's employment and income and discuss his contributions to [redacted] through several projects. A letter from the engineering manager at [redacted] demonstrates that the Petitioner's log sharing platform ensured [redacted]'s compliance with government regulations while maintaining its operational efficiency. However, the letter does not sufficiently establish that he has performed in a critical role consistent with the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii). While the letter reflects the Petitioner's contributions to [redacted]'s compliance with government regulations relating to the protection of user data in the United States, it does not sufficiently establish how his roles were of significant importance to the outcome or standing of [redacted] as a social media platform. For instance, the record does not show that the Petitioner's log sharing platform was critical to the success of [redacted] as a social media platform. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1).

Without sufficient documentary evidence demonstrating that the Petitioner has performed in a leading or critical role for organizations or establishments that have a distinguished reputation, the Petitioner has not established that he meets the plain language of this regulatory criterion. *See* 8 C.F.R. § 204.5(h)(3)(viii).

5. "Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." 8 C.F.R. § 204.5(h)(3)(ix).

SCOPS determined that the Petitioner did not establish eligibility for this criterion. A review of the record of proceeding, however, reflects that the Petitioner submitted sufficient documentary evidence establishing that he minimally meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ix). The Petitioner documented his income by submitting his earning statements from [redacted] and Forms W-2 (Wage and Tax Statement) for 2023 and 2024, and he also submitted geographical and position appropriate salary surveys showing that he has commanded a high salary in relation to others in the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Accordingly, the Petitioner meets this criterion.

B. Final Merits Determination

The Petitioner has not submitted the required initial evidence of either a major, one-time achievement or documents that meet at least three of the ten criteria. As a result, we do not need to provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119–20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward that goal. U.S. Citizenship and Immigration Services has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in his field and that he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2).

For the reasons we have discussed above, the Petitioner has not demonstrated eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above-stated reasons, with each considered as an independent and alternate basis for the decision.

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.