U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37384289

Date: APR. 17, 2025

Service Center Operations (SCOPS) Decision

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

The Petitioner is a medical researcher who 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 that the record did not establish that the Petitioner qualifies as an individual of extraordinary ability either as the recipient of a one-time achievement that is a major, internationally recognized award, or as someone who initially satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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

To qualify as an alien with extraordinary ability, a petitioner must demonstrate that:

- They have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- They seek to continue work in their field of expertise in the United States; and
- Their work would substantially benefit the country.

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

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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and recognition of their 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 criteria 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 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 evidentiary 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).

II. ANALYSIS

The Petitioner is a medical research scientist who specializes in the fields of microbiology and parasitology. The record shows that he received his Ph.D. in "Basic Medical Sciences (Parasitology)" from [redacted] and intends to continue his work in the same field in the United States.

The Petitioner does not claim or submit evidence to show that he received a major, internationally recognized award. He must therefore provide evidence showing that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i) – (x). The Petitioner claims that he meets the elements of the four criteria that are summarized below:

- (iv), Participation as a judge of the work of others in the field;
- (v), Original contributions of major significance;
- (vi), Authorship of scholarly articles; and
- (viii), Leading or critical role for distinguished organizations or establishments;

The Director determined, and we agree, that the Petitioner satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi). On appeal, the Petitioner maintains his qualification for the two remaining criteria, which we will address in our discussion below.

A. Original Contributions of Major Significance

First, we will address the criterion at 8 C.F.R. § 204.5(h)(3)(v), which requires evidence that the Petitioner has made contributions that are both original and of major significance in his field. The major significance component can be addressed with evidence that shows, for example, that the Petitioner's contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See* Visinscaia, 4 F. Supp. 3d at 134-35.

In this matter, the Petitioner discussed several experiments he conducted and explained how the results demonstrated his success as a research scientist developing alternative therapies to treat "human parasitic diseases." For instance, he discussed his use of ELISA,[1] which he states is "a widely used laboratory technique," to develop "a novel, simple and inexpensive fecal ELISA-based method" that can be used to diagnose "low intensity *S. stercoralis*." The Petitioner also discussed his research of various plant extracts to develop "an effective, safe, natural, environmentally-friendly, anti-*Blastocystis* alternative therapy." The Petitioner states that his research "is important because it furthers the understanding of distribution patterns of intestinal parasites and thus help [sic] in the strategic planning of prevention and control measures" and can assist public health officials to improve public utilities. The Petitioner claims that he "has consistently demonstrated that he is among the most talented and creative physicians and scientists" and highlights his citation history of having "been cited more than a thousand times."

The record reflects the originality of the Petitioner's research, which is demonstrated through recommendation letters praising him for his contributions.

For instance, in one letter, a molecular cell parasitologist at the [redacted] discussed the Petitioner's process for phytochemical screening of two plant extracts and the results of his research, which "proved that *O. syriacum* L. generates a fair anti-*Blastocystis* effect and could be used as a supportive additive." The same individual reiterated the Petitioner's claim that his work showed plant extracts to be "an effective, safe, natural, environmentally-friendly, anti-*Blastocystis* alternative therapy." The Petitioner also provided letters from an associate professor at the [redacted] and a professor at [redacted] in Spain. The former referred to the Petitioner's success in researching the anti-cancer properties of plant extracts as proof that "natural products from plants and microbes can play an important role in the amelioration of cancer"; the latter individual discussed the Petitioner's ELISA-based experiment, stating that it provided "new insight" in diagnosing certain intestinal parasites and that the "research paper on this topic has been cited dozens of time [sic] by researchers all over the world," thus demonstrating "the impact of this research." The record contains other letters that more broadly discuss the Petitioner's research on parasitic infections, reference his "past record of success" as "an outstanding researcher," and state that his research addresses "a vital need" for alternative methods to treat parasitic infections.

In response to a request for evidence (RFE), the Petitioner provided another letter of recommendation, this one from a professor of [redacted] who similarly discussed the Petitioner's citation record and listed his roles as founding director of a molecular parasitology lab in Egypt and as director of "a national and international diagnostic reference unit in the field of human parasitic diseases." The author highlighted the Petitioner's "leadership and pioneering vision" and listed his various achievements, such as initiating a program in molecular medical parasitology research, training and mentoring postgraduate researchers and junior faculty, collaborating with "esteemed experts and renowned scientists all over the world," and successfully obtaining research funding and grants and continuing to publish his research results in microbiology and parasitology.

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[1] The Petitioner stated that this acronym stands for Enzyme-Linked Immunosorbent Assay.

[2] The letter states that the author provided information about the applicant based on "my capacity as head of the [redacted] Below the author's signature, however, the author specifies "Ex-Head of [redacted]" thereby indicating that the author no longer serves as the head of the [redacted]

Although the letters of recommendation laud the importance of the Petitioner's research and note that his publications have been heavily cited by other researchers, none explain how the Petitioner's contributions have significantly impacted the fields of parasitology or microbiology. Importantly, the letters do not show that the Petitioner's research has been implemented or utilized in a manner consistent with major significance. With the exception of the latest letter which provides additional information about the Petitioner's various leadership roles, the letters mostly discuss the novelty and utility of the Petitioner's research studies, and none of the letters describe a specific original contribution that has had a broad impact in the fields of parasitology or microbiology, has provoked widespread commentary, or has influenced subsequent work in these specific fields.[3] The authors' respective assertions in the above-referenced letters do not explain how the Petitioner's research findings have been widely implemented in the field or establish that his work has had a demonstrable impact in the field in a way that is commensurate with a contribution of major significance.

The RFE response also points to the Petitioner's citation record as evidence of the impact of his work, noting that his work had been cited over 1200 times in 25 countries. We note, however, that citation frequency is quantitative in nature and does not reveal the reasons for the citations, which involves a qualitative analysis. The fact that the Petitioner has published articles that other researchers have referenced is not, by itself, indicative of a contribution of major significance. Publications alone are not sufficient to show that the Petitioner meets the requirements of 8 C.F.R. § 204.5(h)(3)(v); the Petitioner must also provide evidence that his contributions were of "major significance." Hence, the appropriate analysis is to determine whether a petitioner has shown that his findings, factoring in citations and other corroborating evidence, have been considered important at a level consistent with original contributions of major significance in the field.

The denial acknowledges that the Petitioner has conducted research that has been published and resulted in original contributions. It also recognizes the Petitioner's submission of a patent listing him as one of the inventors. However, the denial concludes that despite demonstrating that his contributions were original, the Petitioner did not provide sufficient evidence showing that the contributions were of major significance in his field.

On appeal, the Petitioner asserts that the denial "incorrectly and improperly applied the legal criteria" and that denying the petition is a "gross mis-adjudication." The Petitioner continues to emphasize his citation record as evidence of his original contributions' major significance, noting that his work has now been cited over 1,300 times in multiple countries and that researchers with considerably fewer citations have been approved for this visa classification.

The regulations repeatedly reflect that an eligibility determination on a benefit request will be based on information contained in the record of proceeding. 8 C.F.R. §§ 103.2(b)(10), (11), (14), (16)(i)–(ii). Each case must be decided based on its own facts and the sufficiency of the evidence presented. *See, e.g.*, *Matter of H-C-R-C-*, 28 I&N Dec. 809, 812 (BIA 2024). Also, the USCIS Policy Manual repeatedly states that agency officers will adjudicate numerous case types on a "case-by-case basis," which is the method we will implement here. *See, e.g*, 6 *USCIS Policy Manual* F.5(D), https://www.uscis.gov/policy-manual. Stated differently, a determination on the facts properly rests on what is implicated within

[3] *See generally* 6 *USCIS Policy Manual*, F.2 Appendix, https://www.uscis.gov/policy-manual (providing guidance for the evaluation of evidence submitted under 8 C.F.R. § 204.5(h)(3)(i)-(x) and 204.5(h)(4)).

each particular record of proceeding. *See Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244, 2277 (2024) (Gorsuch, J., concurring) (stating that "different facts and different legal arguments might dictate different outcomes"); *Twitter, Inc. v. Taamneh*, 598 U.S. 471, 507 (2023) (Jackson, J., concurring) (stating: "Other cases presenting different allegations and different records may lead to different conclusions").

The Petitioner has not established that the facts of this petition are analogous to those in other cases whose facts are unknown and not before us in this proceeding. Moreover, as discussed earlier, a high citation number might show that others in the field have noticed the Petitioner's work, but it does not confirm that his work has impacted or advanced the field of parasitology in a significant way as indicative of a contribution of major significance in the field.

For the reasons discussed above, the evidence is not sufficient to establish that any of the Petitioner's research findings, individually or collectively, have remarkably impacted or influenced his field. Because the Petitioner has not established that he has made a contribution of major significance in the field of parasitology or microbiology, he has not met the requirements of this criterion.

B. Leading or Critical Role

Next, we will address the criterion at 8 C.F.R. § 204.5(h)(3)(viii), which requires evidence that the Petitioner performed in a leading or critical role for a distinguished organization.

In his supporting letter, the Petitioner stated that he has been head of two reference laboratories, has led research at various educational institutions, and has served as a high-ranking member of "world leading scientific societies and committees in his fields." As stated in the denial, the record includes evidence of his membership in the [redacted] and in the [redacted] as well as information about the objectives of American Committee of Molecular, Cellular and Immunoparasitology ("ACMCIP"). We note that the evidence does not show the Petitioner as a member with a leading or critical role, and the objectives information from the ACMCIP website contains no information at all about the organization's membership.

In the RFE notice the Petitioner was informed that the letters he submitted were vague and lacked specific information that is necessary to determine the leading or critical nature of his role. He was therefore asked to provide letters "from persons with personal knowledge of the significance" of his role.

The Petitioner's response statement does not mention or specifically discuss the leading or critical role criterion. However, as noted earlier, the Petitioner submitted an additional recommendation letter from a [redacted] professor, who discussed the Petitioner's leadership roles as founder and director of the [redacted] and as director of the [redacted] which the author explained is "a national and international diagnostic and research reference unit in the field of human parasitic diseases." Although the author establishes personal knowledge of the Petitioner since 1995 – when the Petitioner joined the [redacted] – and also lists the Petitioner's duties in each of his respective positions with the lab and research unit, the letter does not explain the source of the author's claims about the Petitioner's leading or critical roles, as the record contains no evidence that the author held a position

at either the lab or unit where the Petitioner is claimed to have held a leadership position. In other words, although the author appears to have personal knowledge of the Petitioner's role at [redacted] there is no evidence that the author's statements about the Petitioner's claimed leadership roles are based on the author's first-hand knowledge. *See* 6 *USCIS Policy Manual*, F.2(B)(1). And despite the author's praise of the listed institutions where the Petitioner is claimed to have held a leading or critical role, the record lacks evidence that such roles were held at organizations or establishments with a distinguished reputation. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

On appeal, the Petitioner argues that the denial does not adequately explain the reasoning for the adverse decision regarding the issue of "the 'Role in Critical Organization.'"

As a preliminary matter, the Petitioner's abbreviated reference to the criterion in question is incorrect, as it indicates that the organization, as opposed to the role, must be established as critical. As indicated in our summary, the plain language of this criterion requires evidence that: (1) the Petitioner performed a role for an organization or establishment; (2) that the role was leading or critical; and (3) that the organization or establishment where the Petitioner played a leading or critical role had a distinguished reputation. And regarding the sufficiency of the denial's analysis regarding this criterion, the record shows that the Petitioner was duly notified in the RFE that letters of employment should be "from persons with personal knowledge of the significance" of the Petitioner's role. Here, the only evidence of the Petitioner's leading or critical role was in the form of a recommendation letter from an individual who lacked the necessary firsthand "personal knowledge" of that role.

Given the deficiencies discussed above, the Petitioner has not met the requirements of this criterion.

C. Final Merits Determination

Finally, the Petitioner contends that case law precedent, namely the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, precludes a final merits determination in this case. 144 S. Ct. 2244 (2024). Because the Petitioner has not demonstrated that he meets three of the four evidentiary criteria claimed on appeal, the Petitioner's argument is moot as the circumstances in this matter do not require the type of final merits determination referenced in *Kazarian,* 596 F.3d at 1119-20; *see also, INS v. Bagamasbad,* 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

III. CONCLUSION

The Petitioner has not shown that he met either a one-time award, or three of ten initial criteria. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields. USCIS 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 that 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 the field, and that he is one of the small percentage who have risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

ORDER: The appeal is dismissed.