U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37718984

Date: APR. 19, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a dentist, seeks classification as an individual 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 although the Petitioner satisfied at least three of the initial evidentiary criteria, as required, he did not show his sustained national or international acclaim and demonstrate he is among the small percentage at the very top of the field of endeavor. 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 dismiss the appeal.

I. LAW

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,
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> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
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> (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. 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

A. Evidentiary Criteria

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 at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined the Petitioner met at least three of the claimed evidentiary criteria. However, the Director concluded the Petitioner did not show he garnered sustained national or international acclaim and his achievements have been recognized in the field of endeavor, demonstrating he is one of that small percentage who has risen to the very top of the field.

On appeal, the Petitioner argues his satisfaction of additional criteria, and the evidence in the aggregate establishes his eligibility as an individual of extraordinary ability. Because SCOPS determined that the Petitioner fulfilled the minimum requirements of at least three criteria, we will evaluate the totality of the evidence based on the documentation presented to SCOPS in the context of the final merits determination below.[1]

In addition, the Petitioner offers new evidence on appeal. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent

[1] *See also generally* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policymanual.

to deny, all evidence must be submitted together at one time and that submitting only some of the required evidence will be considered a request for a decision on the record).

B. Final Merits Determination

As indicated above, we will evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim,[2] he is one of the small percentage at the very top of the field of endeavor, and his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze an individual's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.[3] In this matter, we determine the Petitioner has not shown his eligibility.

According to the Petitioner's initial cover letter:

> . . . [The Petitioner] is a distinguished professional in the field of Dentistry, specializing as a General Practitioner Dental Surgeon and Prosthodontist, and holding a master's degree in dental Clinic with a concentration in Dental Prosthesis.
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> [The Petitioner's] expertise extends to the realm of oral rehabilitation, particularly in patients with complex tooth loss, where he excels in restoring the myofunctional balance of the stomatognathic system. His qualifications include proficiency in treating temporomandibular disorders (TMD), addressing the loss of vertical dimension of occlusion, and utilizing the CAD CAM system for scanning and digital planning of prosthetic rehabilitations.
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> [The Petitioner's] exceptional combination of extensive experience, advanced skills, and technical knowledge distinguishes him as a uniquely qualified professional in the field. His noteworthy contributions to dentistry, particularly in the challenging area of oral rehabilitation, position him as an outstanding candidate for the Alien of Extraordinary Ability classification under the EB-1 preference category.
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> . . . .
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> The Petitioner's educational background includes a Bachelor's Degree in Dentistry from [redacted] earned from 1991 to 1994). Subsequently, he pursued specialization in Dental Prosthesis at the same university, completing the program from 1996 to 1997. Further advancing his academic pursuits, [the Petitioner] earned a Master's Degree in Dental

[2] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(A)(1) (stating the definition of sustain is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time").

[3] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (instructing that USCIS officers should consider the petition in its entirety to determine eligibility according to the standard – sustained national or international acclaim and the achievements have been recognized in the field of expertise, indicating that the person is one of that small percentage who has risen to the very top of the field of endeavor).

Clinic with a concentration in Dental Prosthesis from [redacted] achieved from 2004 to 2006).

. . . .

With 28 years of cumulative experience, [the Petitioner] has become a Dental Surgeon Specialist in Prosthodontics, excelling in challenging, difficult, and sensitive cases due to his intense dedication and developed abilities.

Since 2009 and continuing to the present day, [the Petitioner] has undertaken the role of a Guest Professor and is Responsible for the discipline of Dental Prosthesis on Implants at the [redacted]. In this capacity, he provides theoretical, clinical, and laboratory classes on implant prostheses, serves as an advisor for course completion work, and participates in course completion work boards, which include theoretical classes, laboratory sessions, and guidance for clinical cases.

As discussed further below, the Petitioner belongs to associations, judged student theses panels, authored material, worked at dental clinics, served in the [redacted], taught students, and earned salaries for his work. However, in considering the totality of the evidence, the Petitioner has not demonstrated that his achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. 1990 U.S.C.C.A.N. 6710, 6739. Furthermore, the Petitioner has not shown that he has risen to that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704. Here, the Petitioner has not established that he enjoys a career that meets this very high standard. *See Amin v. Mayorkas*, 24 F.4th 383, 386-87 (5th Cir. 2002) (stating that the narrow definition reflects the stringency of the extraordinary ability standard).

The Petitioner provided evidence of his membership with the [redacted] and [redacted] However, the Petitioner did not show how his memberships resulted in sustained national or international acclaim or a career of acclaimed work. *See Donskoy v. United States Citizenship & Immigr. Servs.*, No. 21-CV-04757-CRB, 2021 WL 5240224, at *5 (N.D. Cal. Nov. 11, 2021) (upholding the petitioner's membership did not demonstrate the requisite level of achievement or sustained acclaim to establish extraordinary ability).

Moreover, the Petitioner did not demonstrate how his memberships reflect that small percentage who has risen to the very top of the field of endeavor. For example, the Petitioner did not explain how [redacted] membership, which points that he is "one of the nearly one million Floridians licensed," places him among the upper echelon of his field. The record does not contain evidence indicating that he received national or international recognition based on his membership with any of these associations. In addition, the Petitioner did not establish that he has distinguished himself from others

in the field based on his memberships, gaining national or international attention or placing him among the upper echelon in his field.

Regarding the Petitioner's service as a judge of the work of others, an evaluation of the significance of his experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22.[4] The Petitioner participated as a member of the examination board for [redacted] in 2018 reviewing final course projects for eight students. However, the Petitioner did not establish that this one instance contributed to a finding that he has a career of acclaimed work in the field or indicative of the required sustained national or international acclaim.

The Petitioner did not show, for example, how his judging experience compares to others at the very top of the field. In addition, the Petitioner did not establish, for instance, that he garnered wide attention from the field based on his student examination committee work. Moreover, serving on a student examination committee one time does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of his field. Without evidence that sets the Petitioner apart from others in his field, such as evidence that he has a consistent history of reviewing or judging recognized, acclaimed experts in his field rather than students or aspiring dentists, the Petitioner has not shown that his narrow judging experience places him among that small percentage who has risen to the very top of the field of endeavor. *See Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801, at *2 (finding the petitioner did not show that he served as a judge of renowned directors as opposed to aspiring artists or the competitions were considered prestigious or attracted significant attention by the field).

Likewise, authorship and publication do not automatically place one at the top of the field.[5] The record reflects the Petitioner presented evidence showing that he published three articles from 2006 – 2008. However, the Petitioner did not demonstrate that his limited publication record over 15 years ago is consistent with having a career of acclaimed work, sustaining national or international acclaim, and being among the small percentage at the very top of his field. The Petitioner, for instance, did not show the significance of his authorships or how his publication record compares to others who are viewed to be at the very top of the field. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (S.D.N.Y. Jan. 5, 2024) (finding it reasonable for USCIS to focus on the fact that a publication record of six publications over seven years inconsistent with a career of acclaimed work and sustained national or international acclaim).

In addition, the citation history or other evidence of the influence of written work can be an indicator to determine the impact and recognition that his publications have had on the field and whether such

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[4] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (providing that the second step requires USCIS to evaluate the person's judging participation to determine whether it was indicative of the person being of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

[5] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that the second step requires USCIS to evaluate the person's publications to determine whether it is indicative of being one of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

influence has been sustained. For example, numerous independent citations for an article authored by the Petitioner may provide solid evidence that his work has been recognized and that others have been influenced by his work. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian,* 596 F. 3d at 1122. Although he claimed in his initial cover letter that his 2007 *Magazine* article "continues to enjoy substantial visibility on the journal's website," the Petitioner did not demonstrate that his article received a level of interest in the field commensurate with sustained national or international acclaim or a career of acclaimed work.[6] Further, the Petitioner did not show the impact or influence of his other two articles have had on the field or otherwise show the significance or relevance of his publications. *See Bhanu v. Garland*, No. 22-103, 2023 WL 6119357, at *9 (E.D. Pa. Sept. 18, 2023) (upholding the Petitioner did not show the significance of authorships reflecting that he is among the small percentage at the very top of the field).

The record also reflects that the Petitioner worked as a dental surgeon for (Brazil), as well as for several clinics such as: co-administrator and associate dental surgeon at Odontological Clinic Interface, manager at and collaborator at In addition, the Petitioner served as the chief of the dental office for the . Further, the Petitioner held the position of coordinator for implant-supported prosthesis at .

The Petitioner provided recommendation letters generally praising him and his work. For instance, A-A-S- stated that the Petitioner "was responsible for supervising all military dental activities, following strict military regulations" and "was critical in ensuring high-quality dental care services, with a focus on discipline, organization, and leadership, setting an example for his peers." M-A-L- stated that the Petitioner's "tenure at not only enriched the clinic's service offerings but also left an indelible mark on our path to success" and his "dedication and competence were key elements for the continuous improvement of the quality of our services and the building of a solid and trustworthy reputation among our patients and the dental community at large."[7]

Here, the letters do not contain sufficient information and explanation to show that the Petitioner is viewed by the overall field, rather than by a solicited few, among the upper echelon or that he has garnered recognition on a national or international scale, consistent with being among the small percentage at the very top of the field of endeavor. *Mishra v. Richardson*, No. 120CV991LMBTCB, 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding the plaintiff submitted letters only from people within his circle of professional acquaintances, and none of the letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim). Although the letters highlight the Petitioner's talents and responsibilities, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (finding the plaintiff's work for organizations did not result in national or international acclaim). Moreover, the Petitioner did not establish that his roles received widespread acclaim from the field, drew significant attention from the greater field, or the overall field views him among the leading dentists in the field. *See Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021

[6] The Petitioner's initial cover letter contained a graph of "Downloads" without establishing which article, if any, the downloads relate. Moreover, the Petitioner did not show the significance or relevance of the downloads to demonstrate that his work garnered attention at a level placing him among that small percentage at the very top of the field.

[7] Although we discuss a sampling of letters, we have reviewed and considered all of the letters contained in the record.

WL 2338316, at *4, *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (upholding plaintiff did not contextualize his work at an organization demonstrating recognition by the field as being significantly important or viewed as unusually influential). Furthermore, the Petitioner did not show that he attracted a level of attention from his employment that places him among that small percentage at the very top of the field or enjoys a career of acclaimed work.

Finally, although the Petitioner documented his income as a dental surgeon, coordinator professor, and prosthetics specialist from 2019 – 2021, the Petitioner did not establish that he commanded earnings commensurate with sustained national or international acclaim. The Petitioner did not show that his wages are tantamount to an individual who is among that small percentage at the very top of the field of endeavor. He did not demonstrate, for example, how his earnings compare to others at the very top of the field or other renowned dentists, or that he received notoriety or attention based on his salary separating himself from others in the field or placing him in the upper echelon. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (finding that the plaintiff's high salary was not so high as to indicate that he has risen to the very top of the field). Moreover, the Petitioner did not show that he consistently earned high wages throughout his career rather than providing salary information for a three-year period, including no information regarding salary for the few years prior to filing his petition. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (finding the failure to show consistent high wage earnings did not reflect sustained national or international acclaim and a single year's, or even a few years', worth of salary data unlikely to satisfy this requirement).

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought.[8] Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Amin v. Mayorkas*, 24 F.4th at 394 (stating that extraordinary ability is such an elite level of accomplishment); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that EB-1 visa are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. *See* Section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that he is among the small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual 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.

[8] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence).

ORDER: The appeal is dismissed.