U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37800186

Date: AUG. 6, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a postdoctoral fellow in the field of particle and energy transport, 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

SCOPS denied the petition, concluding that while the record establishes that the Petitioner satisfied at least three of the ten initial evidentiary criteria, as required, the totality of the evidence did not show, in a final merits determination, that the Petitioner has received sustained national or international acclaim and that he is among the small percentage at the very top of the field of endeavor. 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

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,
>
> (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). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of his or her 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 he or she 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 he or she is able to demonstrate that 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 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). SCOPS determined the Petitioner met the claimed evidentiary criteria: that he has participated as a judge of the work of others; that he has made original contributions of major significance to the field; and that he has authored scholarly articles in the field in professional or major trade publications or other major media. However, SCOPS 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, we will review the totality of the evidence in the context of the final merits determination below.[1]

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] that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze an individual's

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

[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").

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.

The Petitioner has worked since 2022 as a postdoctoral fellow at the [redacted] at [redacted] University in California. In this position, the Petitioner performs research in quantum thermodynamics and superconducting qubit architectures. The Petitioner claims to have extraordinary ability in the field of nanoscale quantum devices. The Petitioner obtained a Ph.D. in nanoscience from the [redacted] in February of 2021. As discussed further below, the Petitioner has conducted review work, made research contributions in his field, and authored material. 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 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. For the reasons discussed below, we conclude that 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).

On appeal, the Petitioner submits a brief and additional evidence. The record shows that, prior to the petition's denial, SCOPS provided the Petitioner with the opportunity to submit additional evidence in response to a request for evidence (RFE). Where a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency prior to issuance of the adverse decision, new evidence will not be considered on appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988); *see also* 8 C.F.R. § 103.2(b)(11) (requiring the submission of all requested evidence together at one time). We will not, therefore, consider this newly submitted evidence in our decision.

In the Petitioner's appeal brief he asserts that SCOPS improperly focused on the time frame of the Petitioner's contributions and publications in determining whether he has demonstrated sustained acclaim. The Petitioner also contends that the SCOPS decision is vague and omits important evidence. In claiming that he has established sustained acclaim and that he is one of a small percentage who have risen to the very top of the field, the Petitioner emphasizes his scholarly publications and his letters of recommendation. The Petitioner contends that he is among the most cited researchers in his field and that his work has been published in some of the most well-known journals in his field.

[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).

However, authorship and publication do not necessarily place one at the top of the field.[4] The record reflects that the Petitioner presented evidence showing that he has co-authored 38 publications from 2019 – 2024. However, the Petitioner did not demonstrate that his publication record is consistent with having a career of acclaimed work, sustaining national or international acclaim, and being among the small percentage of at the very top of his field. The Petitioner, for example, did not show the significance of the number 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. USCIS*, 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).

Regarding his overall citation record, the Petitioner provided evidence from Google Scholar (GS) reflecting 450 citations of work that he has coauthored, with his 5 highest cited articles receiving 67, 67, 57, 36, and 34 citations, respectively, and another 6 articles receiving between 27 and 21 citations. The record, however, does not sufficiently establish how many of these are self-citations by him or his coauthors.[5] Furthermore, the Petitioner submitted data from Clarivate Analytics (CA) regarding baseline citation rates and percentiles by year of publication for the field of physics. The Petitioner claims that his citation record demonstrates that these 9 of his articles are ranked among the top [redacted]% in number of citations in their respective years of publication. However, the Petitioner did not indicate whether he factored in any self-citations in determining these percentile rankings. Moreover, the documentation from CA states that "[c]itation frequency is highly skewed, with many infrequently cited papers and relatively few highly cited papers. Consequently, citation rates should not be interpreted as representing the central tendency of the distribution." Further, he submitted data claiming to be derived from "OpenAlex" reflecting [redacted]% for "Citation Percentile" and [redacted]% for "Publication Percentile." Notwithstanding that the document does not indicate the source to be "OpenAlex," the Petitioner did not show how "OpenAlex" calculates the percentile figures.

The Petitioner also presented an article in *Scientometrics* written by Lutz Bornmann and Werner Marx, entitled "How to evaluate individual researchers working in the natural and life sciences meaningfully? A proposal of methods based on percentiles of citations." This article presents recommendations for "how to evaluate individual researchers in the natural and life sciences" for purposes of funding and promotion or hiring decisions. The authors state that "publications which are among the 10% most cited publications in their subject area are as a rule called highly cited or excellent" and that "the top 10% based excellence indicator" should be given "the highest weight when comparing the scientific performance of single researchers." While the authors offer proposed methods for bibliometric analysis of research performance, the record does not indicate that their methods have been accepted and implemented by the academic community. Moreover, with regard to citation information from GS, the authors advise against "using Google Scholar (GS) as a basis for bibliometric analysis. Several

[4] *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).

[5] The Petitioner contends that he has submitted evidence of his "independent" citation record that excludes self-citations. The document submitted is a printout from GS listing the specific titles and authors of each of the publications that have cited to the Petitioner's work, listed by each of the Petitioner's publications that have been cited. Some of these titles have been highlighted, and the Petitioner asserts that the highlighted titles are not self-citations. The record, however, does not contain evidence to demonstrate that the authors of those publications are not affiliated with the Petitioner.

studies have pointed out that GS has numerous deficiencies for research evaluation."

Overall, the Petitioner has not provided sufficiently credible documentation establishing that his publication and citation percentiles are reflective of garnering sustained national or international acclaim. Even if we accepted his claims that his publication and citation record qualify him as being in the top [redacted]% citation percentile and the top [redacted]% publication percentile, which we do not, the Petitioner did not demonstrate that such rankings place him among the very top of the field. *See Bhanu v. Garland*, No. 22-103, 2023 WL 6119357, at *9 (E.D. Pa. Sept. 18, 2023) (upholding finding that petitioner did not show that his authorships reflect that he is among the small percentage at the very top of the field). In addition, the Petitioner contends that his work has been published in some of the most prestigious journals in his field. The Petitioner points to his publication in [redacted], which he states has an impact factor of 17.6, and [redacted] with an impact factor of 8.1. However, the Petitioner did not provide context for these claims. For instance, the Petitioner did not show that being published in these journals represents a person who is among the small percentage at the very top of the field or that it reflects sustained national or international acclaim.

The Petitioner also emphasizes his reference letters and recommendation letters on appeal. We conclude that the letters are not sufficiently persuasive. The letters generally highlight the Petitioner's work and some of the letters state that the author has used the Petitioner's research findings in their own work. For example, the letter from [redacted] Ph.D, of [redacted] in [redacted] Italy, discusses the Petitioner's education, work experience, describe some of his research and its findings, and states that his peer review service "solidifies his status as a respected figure" within his field. The letter from Dr. [redacted], an assistant professor at the [redacted], [redacted] describes two of the Petitioner's research projects and states that the Petitioner's research on nanoscale quantum devices has "had a significant impact" on Dr. [redacted] own work. The letter from Dr. [redacted], of the [redacted] in Spain, describes several of the Petitioner's research projects and states the belief that the Petitioner "has made significant discoveries in the field of nanoscale quantum devices" and that his "outstanding track record has risen him to the top percentage researcher in the field." The letter from Dr. [redacted] [redacted] principal research scientist at [redacted] states that the Petitioner is a "top contributor" and that his research and scientific "reach the best international ranking standards."

Letters that merely reiterate USCIS' definitions relating to this classification or make general and expansive statements regarding the beneficiary and the beneficiary's accomplishments are generally not persuasive. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(3). The letters do not claim, nor does the content show, that the Petitioner has achieved national or international acclaim from the field. Moreover, the letters do not demonstrate that the Petitioner has attracted a level of attention placing him the very top of his field. In addition, the letters do not show that he has enjoyed a career of acclaimed work. *See Jafarov v. USCIS*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (finding testimonial letters were insufficient to establish his relative status in the field and do not compare him to others).

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, to be 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. 1:20-cv-991

(LMB/TCB), 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding that none of the plaintiff's letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim). Although the letters highlight the Petitioner's work, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar v. USCIS*, No. 1:19-CV-706 (MAD/CFH), 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding the submitted letters failed to establish the plaintiff's contributions resulted in significant acclaim).

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought.[6] 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 visas are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, 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. *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.

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 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.

[6] *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).