U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43783176

Date: AUG. 11, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a director in the field of product management in data-driven advertisement technology, 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.

USCIS denied the petition, concluding the Petitioner satisfied the initial evidentiary requirements for this classification but did not establish, as required, that he has sustained national or international acclaim and is among the small percentage at the very top of his field. 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 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). 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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

In his initial letter, the Petitioner asserts he is an expert in product management in data-driven advertisement technology and that he plans to continue to work in his field of expertise. Because the Petitioner has not indicated or established that he 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). The Petitioner initially claimed five criteria relating to membership, judging, original contributions, leading or critical role, and high salary. USCIS determined the Petitioner satisfied three of the five criteria relating to judging, leading or critical role, and high salary. Therefore, USCIS proceeded to do a final merits determination but found that he did not show he garnered sustained national or international acclaim and that he is among that small percentage who have risen to the very top of the field.

On appeal, the Petitioner contends USCIS did not analyze the totality of the record in its final merits determination as required. Specifically, the Petitioner notes that USCIS only addresses the judging criterion and omits the evidence in support of the criteria relating to leading or critical role and high salary. In addition, the Petitioner contends USCIS erred in disregarding evidence and finding that he did not meet the criteria relating to membership and original contributions.

Upon review, we agree with USCIS that the Petitioner meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). Thus, he meets the initial evidence requirements for this classification. However, we find that USCIS did not sufficiently analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if his achievements demonstrate

extraordinary ability in the field of endeavor.[1] For instance, in the final merits determination, USCIS did not address evidence relating to the Petitioner's role at [redacted] or his contributions to multi-dimensional identity resolution. In addition, USCIS does not discuss the Petitioner's documented income and whether it is tantamount to an individual who is among that small percentage at the very top of the field of endeavor. USCIS must make a final merits determination based on a review of the totality of the evidence the Petitioner provided. Rather than make this determination in the first instance, we will remand the matter.

On remand, USCIS must analyze the Petitioner's accomplishments and weigh the totality of the evidence, including the evidence and arguments provided on appeal, to determine if he established his extraordinary ability in his field of endeavor based on the statutory and regulatory standards. *See* section 203(b)(l)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119- 20. USCIS should consider any potentially relevant evidence of record, even if it does not fit one of the evidentiary criteria or was not presented as comparable evidence. *See generally 6 USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policy-manual. The type and quality of evidence should determine the petition's approval or denial. *Id.*

By a preponderance of the evidence, the Petitioner has satisfied three initial evidentiary criteria. We will remand the matter for a final merits determination.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

[1] An officer must fully explain the reasons for denying a visa petition to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal).