U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43485837

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 seeks classification as an individual of extraordinary ability "as An International Consultant and Policy Analyst for Central Asian Affairs." *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 did not satisfy at least three, as required, of the initial evidentiary criteria. 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,

(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) (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. U.S. Citizenship & Immigr. Servs.*, 596 F.3d 1115, 1119-20 (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. U.S. Citizenship & Immigr. Servs.*, 772 F. Supp. 2d 1339, 1346 (W.D. Wash. 2011), *aff'd*, 683 F.3d 1030 (9th Cir. 2012).

II. ANALYSIS

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 under 8 C.F.R. § 204.5(h)(3)(i)-(x). USCIS determined the Petitioner met only one (role under 8 C.F.R. § 204.5(h)(3)(viii)) of the five claimed categories of evidence. On appeal, the Petitioner maintains that he fulfills four additional criteria.[1]

A. Awards

USCIS determined that the Petitioner did not satisfy this criterion, and we agree with that determination. The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." USCIS determines whether the award is a lesser nationally or internationally recognized prize or award which the person received for excellence in the field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to: the criteria used to grant the awards or prizes, the national or international significance of the awards or prizes in the field, the number of awardees or prize recipients, and limitations on competitors. *Id.*

[1] In the request for evidence (RFE), USCIS informed the Petitioner that "[n]o cover letter or evidence was submitted outlining which of the ten criteria you are attempting to meet to qualify for consideration under this classification." In the RFE response, counsel's letter asserted that he submitted a cover letter and a list of evidence with the initial petition. However, the record does not show that counsel provided such evidence. Regardless, the RFE response contained evidence and criteria eligibility claims, which USCIS based for its decision and we will evaluate for the appeal.

The Petitioner claims eligibility for this criterion based on "a series of formal promotions by official order of the [redacted] of the Republic of Tajikistan," such as first degree of state service, first and second degree lawyer, and second degree justice advisor. In addition, the Petitioner submitted a "Letter of Gratitude" from S-S- reflecting that he was "[a]warded for active participation and significant contribution in the holding of the [redacted] meeting of the [redacted] of the member states of the [redacted]." Both in the RFE response in the appellate brief counsel makes unsupported assertions regarding these job promotions; for example: "[s]uch distinctions are governmental honors carrying national significance within the field of judicial administration and legal affairs," "formal recognition by the [redacted] of the Republic of Tajikistan in connection with this event therefore carries both national and international significance," and "a distinction that reflects achievement of the highest order within the field of international law and judicial cooperation, and that goes substantially beyond the scope of ordinary professional performance." Besides submitting documentation reflecting the Petitioner's receipt of promotions and gratitude, counsel did not point to any other evidence corroborating any of his claims. Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g.*, *Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight").

Here, the Petitioner did not establish that his job raises and participation meetings constitute nationally or internationally recognized prizes or awards for excellence. *See, e.g., Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *8 (N.D. Cal. Feb. 16, 2021) (upholding no evidence that the awards were nationally or internationally recognized); *Nakos v. U.S. Citizenship & Immigr. Servs.*, No. 3:25-CV-0985-D, 2026 WL 2042845, at *4 (N.D. Tex. July 15, 2026) (upholding that the awards did not have sufficient national or international recognition). The Petitioner did not show that his field views these job advancements as national or international prizes or awards for excellence. *See, e.g., Sun v. Jaddou*, No. 3:24-CV-01466-E, 2025 WL 1556944, at *4 (N.D. Tex. June 2, 2025) (upholding that the plaintiff did not establish the award demands the wider industry, either nationally or internationally, takes notice of it); *Visinscaia*, 4 F. Supp. 3d at 136 (finding that without evidence reflecting how a larger audience viewed the plaintiff's awards, there was no way to evaluate whether those awards were recognized widely enough to satisfy the awards criterion). Furthermore, the Petitioner did not demonstrate the recognition of these job promotions beyond the [redacted] of the Republic of Tajikistan. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that an award available only to persons within a single locality, employer, or school may have little national or international recognition); *see also Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021) (USCIS must focus on the recognition of the award, not its issuer).

Accordingly, the Petitioner did not demonstrate he meets this criterion.

B. Published Materials

USCIS determined that the Petitioner did not satisfy this criterion, and we agree with that determination. The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation." USCIS determines whether the published material was

related to the person and the person's specific work in the field for which classification is sought. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The Petitioner claims eligibility for this criterion based an article published by Radio Azattyk.

At the outset, the Petitioner did not include the required author of the article. *See, e.g., Javakhadze v. Mayorkas*, No. 3:21-CV-00617-E, 2023 WL 8037730, at *6 (N.D. Tex. Nov. 20, 2023) (upholding articles did not contain the required authors); *Kumar v. Dir. of U.S. Citizenship & Immigr. Servs.*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024) (upholding plaintiff's evidence did not include the required title, date, or author); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *4 (D. Neb. Mar. 10, 2025) (upholding petitioner did not provide sufficient evidence of the required title, date, and author of the material); *Limon v. Dep't of Homeland Sec.*, No. CV H-25-0063, 2026 WL 2000101, at *4 (S.D. Tex. June 22, 2026) (upholding articles were either missing the name of the publication, the name of the author, or the date of the publication); *Nakos*, 2026 WL 2042845, at *5 (finding plaintiff's contention that identifying the publisher of a submitted material satisfies the requirement that the evidence include the author of the material is inconsistent with the regulation's plain language).

Notwithstanding the above, the article does not reflect published material about the Petitioner. Rather, the article relates to convicted defendant [redacted] and his request for early release from prison. *See, e.g., Lapteva*, 2025 WL 815087, at *4 (finding the regulation and USCIS policy clearly intend for evidence under this criterion to say something substantive about the petitioner and her work); *Nakos*, 2026 WL 2042845, at *5 (upholding that the article only mentioned the plaintiff in passing). In fact, the Petitioner is mentioned one time as informing Radio Azattyk that the [redacted] had not received any appeals from [redacted] *See, e.g., Gadhave v. Thompson*, No. 3:21-CV-2938-D, 2023 WL 6931334, at *4 (N.D. Tex. Oct. 19, 2023) (upholding articles only citing, quoting, or referencing the beneficiary do not qualify as about him); *Joseph v. Dir. of Texas Serv. Ctr., United States Citizenship & Immigr. Servs.*, No. 24-40249, 2025 WL 458001, at *3 (5th Cir. Feb. 11, 2025) (upholding an article that included quotes from the petitioner, did "not make the article about" him); *Nelson v. U.S. Citizenship & Immigr. Servs.*, No. CV 21-10334-LTS, 2022 WL 20583561, at *5 (D. Mass. June 15, 2022) (finding a reasonable decisionmaker could conclude articles are not about the expert quoted nor are they comparable to such articles).

In addition, the Petitioner did not establish that Radio Azattyk represents a professional or major trade publication or other major medium. USCIS determines whether the publication qualifies as a professional publication, major trade publication, or major media publication. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media). *Id.* The Petitioner provided an "About Us" document indicating that "Azattyq Asia is the Central Asia department of Radio Free Europe/Radio Liberty (RFE/RL)" and "[e]stablished in October 2024, it united the Russian-language newsrooms of five countries in the region." Also, the Petitioner submitted history and background information from qazpolit.org about Radio Azattyk, RFE, and RL. However, the Petitioner did not demonstrate how the content points to Radio Azattyk's professional, or major trade publication, or other major medium standing.

For the reasons discussed above, the Petitioner did not show he satisfies this criterion.

C. Contributions

USCIS determined that the Petitioner did not satisfy this criterion, and we agree with that determination. Analysis under this criterion focuses on whether the person's original work constitutes major, significant contributions in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Counsel's RFE letter claimed:

> From December 2014 to September 2017, [the Petitioner] served as Head of the Department of [redacted] at the [redacted] of the Republic of Tajikistan – the department responsible for facilitating the [redacted] international cooperation with corresponding judicial entities of the Commonwealth of Independent States (CIS), the [redacted], and judicial bodies from numerous foreign countries.
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> . . . .
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> [The Petitioner's] role in developing and maintaining this cooperation – drafting multilateral legal documents, coordinating judicial interactions among sovereign states, and managing the institutional framework of international judicial engagement – represents an original professional contribution that goes substantially beyond the scope of ordinary legal practice and reflects expertise of major significance at both the national and international levels.

However, counsel did not reference any evidence to support his assertions. *S-M-*, 22 I&N Dec. at 51.

Further, counsel's RFE letter claimed:

> [The Petitioner] developed and implemented original methodological recommendations for the processing of public complaints against the actions of judges – a contribution that directly shaped institutional practice within the [redacted] and established a new procedural framework for handling one of the most sensitive and consequential categories of public accountability within the national judiciary.
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> . . . .
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> This contribution was formally recognized by the [redacted], who on [redacted] 2019, issued Order No. [redacted] promoting [the Petitioner] to the rank of [redacted] – an official acknowledgment that his work during this period rose to the level of distinguished professional achievement warranting formal state recognition.

However, the order does not support counsel's assertions. *S-M-*, 22 I&N Dec. at 51. Instead, the order simply reports on the Petitioner's promotion without any indication of the Petitioner's development or implementation of "original methodological recommendations."

Similarly, counsel's RFE letter claimed:

> In 2022, while serving as Head of the [redacted] at the [redacted] [the Petitioner] was entrusted with all aspects of the preparation and conduct of the [redacted] Meeting of the Chairpersons of the [redacted] of the [redacted] Member States, hosted by the [redacted] of the Republic of Tajikistan in [redacted] His responsibilities encompassed the full spectrum of organizational and substantive tasks: drafting invitations, developing agenda proposals, preparing presentations, drafting the Joint Statement of conference participants, organizing receptions, accommodations, and farewell events for delegation members from ten sovereign nations.
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> The Joint Statement produced as such meetings constitutes a multilateral legal and policy document reflecting the consensus positions of the supreme judicial authorities of all [redacted] member states on pressing issues of judicial cooperation, legal standards, and international law. [The Petitioner's] direct role in drafting this document places his contribution squarely within the category of original scholarly and professional work of major significance – a contribution recognized formally by the [redacted] the [redacted] through the issuance of a Letter of Gratitude on August 26, 2022. [ ].

However, the gratitude letter does not support counsel's assertions. *S-M-*, 22 I&N Dec. at 51. Instead, as indicated under the awards criterion, the letter simply indicates "for active participation and significant contribution in the holding of the [redacted] meeting of the [redacted] of the member states of the [redacted]" The letter does not corroborate counsel's claim that the Petitioner received the letter based on his direct role in drafting the joint statement.

Likewise, counsel's RFE letter claimed that "[b]y institutionalizing media access and public communication as tools of anti-corruption policy within the judiciary, [the Petitioner] contributed to a broader systemic shift in how the [redacted] of Tajikistan engaged with civil society – a contribution that has lasting significance for the development of judicial accountability in the region." Although he referenced a letter from I-A-N-, deputy chairman, the letter does not corroborate counsel's assertions. *S-M-*, 22 I&N Dec. at 51. The letter makes no mention of the Petitioner institutionalizing media access and public communication as tools of anti-corruption policy within the judiciary, as well as indicating a broader systemic shift in how the court engaged with civil society. Rather, the letter praises the Petitioner for his skills, dedication, and professionalism.

Finally, counsel's RFE letter claimed:

> The significance of [the Petitioner's] contributions to his field is further corroborated by his recognition as the [redacted] of the [redacted] of the Republic

> of Tajikistan in communications with Radio Ozodi – the Tajik-language service of Radio Free Europe/Radio Liberty, a U.S. Congress-funded international broadcaster operating in over 20 countries and 24 languages. In a [ ] 2014, article, [the Petitioner] was identified by name and title as the institutional voice of the [ ] in connection with a high-profile criminal matter involving a former [ ] of the Republic of Tajikistan. [ ].
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> The selection of [the Petitioner] as the [ ] official spokesperson in communications with a major international media outlet reflects the level of institutional trust, recognized expertise, and professional authority he had attained – and constitutes independent third-party evidence of his standing as a recognized expert in his field.

Although he referenced the previously discussed Radio Azattyk article, counsel did not identify the Petitioner's original contributions. The record does not reflect how being a spokesperson resulted in the Petitioner's original contributions in the field. Moreover, counsel did not demonstrate how the article shows the Petitioner's original contributions.

USCIS determines whether the person has made original contributions in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Here, the Petitioner did not show through documentary evidence that he made original contributions in the field. Again, uncorroborated assertions of counsel do not establish the Petitioner's original contributions. *S-M-*, 22 I&N Dec. at 51. Furthermore, the Petitioner did not establish that these purported contributions influenced the overall field in a majorly significant manner besides having limited impact to his employer. *Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, at *5 (N.D. Tex. Nov. 29, 2022) (stating that "[c]ourts have routinely affirmed agency decisions that held § 204.5(h)(3)(v) 'requires substantial influence beyond one's employers, clients, or customers); *see also Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Visinscaia*, 4 F. Supp. 3d at 134; *Strategati, LLC v. Sessions*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at *6 (S.D. Cal. May 31, 2019); *see also Onaghise*, 2022 WL 4073344, at *6 (finding the petitioner's contributions have impacted only his own company and some of his company's clients); *Yasar v. Dep't of Homeland Sec.*, No. CIV.A. H-05-2448, 2006 WL 778623, at *11 (S.D. Tex. Mar. 24, 2006) (upholding support letters did not show the plaintiff's contributions had the requisite significance outside of his employers).

For these reasons, the Petitioner did not demonstrate he fulfills this criterion.

III. CONCLUSION

The Petitioner did not establish eligibility for any of the categories of evidence discussed above. Although the Petitioner also claims qualification for the high salary criterion, (8 C.F.R. § 204.5(h)(3)(ix)), we need not reach this ground, as well as a review of USCIS' favorable determination for the role criterion (8 C.F.R. § 204.5(h)(3)(viii)), because the Petitioner cannot fulfill the initial evidentiary requirement of at least three under 8 C.F.R. § 204.5(h)(3). *See Kinuthia*, 702 F. Supp. 3d at 11, *aff'd*, 2025 WL 3491324, *cert. denied*, 140 S. Ct. 2643 (declining to consider a criterion when the plaintiff cannot satisfy at least three). Accordingly, we decline to reach and hereby reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are

not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that he is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we also decline to reach and hereby reserve any final merits determination in this matter. *See Bagamasbad*, 429 U.S. at 25.

For the reasons discussed above, the Petitioner has not demonstrated his 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.