U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41932988

Date: AUG. 13, 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. *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 aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id.*

The Director revoked the approval of the petition, concluding that the Petitioner did not establish that he either received a major, internationally recognized award or satisfied at least three of the 10 initial evidentiary criteria. The Director further noted that, even if the Petitioner satisfied the initial evidentiary criteria, the record did not show that the Petitioner has 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Section 205 of the Act, 8 U.S.C. § 1155, states that USCIS may revoke the approval of a previously approved visa petition for "good and sufficient cause." This is defined as "where the evidence of record at the time the notice [of intent to revoke] is issued, if unexplained and unrebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof." *Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988); *see also Matter of Estime*, 19 I&N Dec. 19 I&N Dec. 450 (BIA 1987).

Section 203(b)(1) 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 sustained acclaim and the 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 10 categories listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). If a criterion at 8 C.F.R. §§ 204.5(h)(3)(i)-(x) does not readily apply to a petitioner, they may submit comparable evidence to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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).

II. ANALYSIS

At the time the Petitioner filed the Form I-140, Immigrant Petition for Alien Workers, he claimed to meet the criteria at 8 C.F.R. §§ 204.5(h)(3)(i), (ii), (v), and (vi). The Director issued a request for evidence, and the Petitioner's response reasserted eligibility under the same four criteria. After initially approving the petition, the Director issued a notice of intent to revoke (NOIR), informing the Petitioner of deficiencies regarding the criteria at 8 C.F.R. §§ 204.5(h)(3)(i), (ii), (v), and (vi). In response, the Petitioner again asserted eligibility under the four initial criteria and he claimed for the first time that he also met the criteria at 8 C.F.R. §§ 204.5(h)(3)(viii) and (ix). The Director concluded that the Petitioner satisfied only two criteria (the criterion at 8 C.F.R. § 204.5(h)(3)(vi) and the newly claimed criterion at 8 C.F.R. § 204.5(h)(3)(viii)), and the Director revoked the Form I-140 approval under section 205 of the Act. The Petitioner then appealed the revocation and he now asserts that he meets a total of seven criteria (including the criterion at 8 C.F.R. § 204.5(h)(3)(iv), in addition to the six claimed in response to the NOIR).

As explained above, good and sufficient cause to revoke an approval exists if "the evidence of record at the time the [NOIR] is issued, if unexplained and unrebutted, would warrant a denial of the visa

petition based upon the petitioner's failure to meet his burden of proof." *Matter of Ho*, 19 I&N Dec. at 590. That same decision limited its scope to the "aspects of the record that related to the stated ground for revocation." *Id.* at 584. Moreover, a revocation can be grounded upon, and a petitioner is obliged to respond to, only the allegations in the NOIR. *Matter of Arias*, 19 I&N Dec. 568 (BIA 1988). And the regulation at 8 C.F.R. § 205.2(b) provides a petitioner the opportunity to offer evidence "in opposition to the grounds alleged for revocation of the approval" in the NOIR.

Therefore, although the NOIR was properly issued, we conclude that the Director erred by addressing newly claimed criteria and a final merits determination in its revocation notice because those grounds were not included in the NOIR.[1] Accordingly, while we agree that the Petitioner has not established eligibility for the requested benefit, we will remand the matter to the Director to enter a new decision based on the grounds for revocation addressed in the NOIR and the Petitioner's response to those stated grounds. If the Director intends to revoke the approval under additional grounds not addressed in the NOIR, the Director should issue a new NOIR to provide the Petitioner an opportunity to explain or rebut them. *See* 8 C.F.R. §§ 205.2(b)-(c); *Matter of Ho*, 19 I&N Dec. at 590.

We further note that much of the evidence submitted in support of the four initially claimed criteria is unrelated to the Petitioner's stated area of extraordinary ability. The Petitioner described his plan as continuing to work as "a manager in the field of airport security management" and he reaffirms his "asserted extraordinary ability in his field of 'airport security management'" on appeal.

As it relates to the criterion at 8 C.F.R. § 204.5(h)(3)(ii), the Director should consider whether any of the claimed memberships' organizations qualify as associations in the Petitioner's field of airport security management, in addition to whether they require outstanding achievements of their members as judged by recognized national or international experts in their disciplines or fields. For example, according to the English translation of the [redacted] in the record, its '[redacted]" and similar endeavors.

Similarly, the Director should determine if articles the Petitioner authored or co-authored on research subjects such as cognitive radio ad hoc networks, deep space communication networks, wireless sensor networks based on Mars exploration, the structure and position of macro-molecular complexes in a cellular environment, etc., are in his field of airport security management, as required by the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(vi).

And the operational model the Petitioner references as a contribution of major significance to meet the criterion at 8 C.F.R. § 204.5(h)(3)(v) relates to landing incoming flights at a nearby airport and then

[1] The NOIR specifically stated, "USCIS will not conduct a final merits determination to determine whether [the Petitioner] has reached a level of expertise indicating that he is one of that small percentage who has risen to the very top of the field of endeavor, and whether he has sustained acclaim." Thus, the Director's discussion of the final merits determination in the revocation notice also improperly exceeded the grounds for revocation addressed in the NOIR. *See, e.g., Doe I v. DHS*, No. 20-CV-07517-BLF, 2022 WL 1212013, at *5 (N.D. Cal. Apr. 25, 2022) ("Doe I was not provided the opportunity to 'offer evidence . . . in opposition to the grounds alleged for revocation of the petition' when CIS revoked his approved Form I-140 petition for different reasons than were specified in the NOIR.").

transporting passengers via bus to the intended destination airport by land if the latter is inaccessible directly by air, such as during inclement weather. The Director should consider whether this alternative transportation plan is not only an original contribution of major significance, but also whether it is in his field of airport security management.

Finally, regarding eligibility for the criterion at 8 C.F.R. § 204.5(h)(3)(i), the Director should determine whether any of the claimed awards are nationally or internationally recognized for excellence in the field of endeavor. For example, the 2020 [redacted] Award for "Best Case" is described in the record as a "[redacted] Award" given for "[redacted]" Therefore, the Director should consider whether digital transformation or generalized collaborative innovation management and regional civil aviation development relate to the field of airport security management. We further note that some of the various translations of the award in the record list [redacted] Ltd., as the "enterprise" and the Petitioner as one of two submitters or applicants for the award. However, a copy of an article published by Sohu.com in the record states, "[redacted] Award' for Digital Transformation Practice." An article in the record attributed to Carnoc.com provides a similar statement. Notably, neither article mentions the Petitioner, particularly as an award recipient. The Petitioner must resolve this inconsistency in the record with independent, objective evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. at 591-92.

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