U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 44493690

Date: AUG. 17, 2026

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

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

The Petitioner, a business owner, 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 that the Petitioner did not satisfy at least three of the ten initial evidentiary criteria. 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); *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 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 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). If an evidentiary standard under 8 C.F.R. § 204.5(h)(3)(i)-(x) does not "readily apply" to a petitioner's occupation, the petitioner 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, 1121 (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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (upholding USCIS' two-step review process as "consistent with the governing statute and regulation").

II. ANALYSIS

The Petitioner is seeking to be classified as an alien of extraordinary ability in the field of business based on his specialization in manufacturing disposable underwear and personal hygiene products for travel and incontinence use. He indicates that he founded his business, [redacted] Ltd., in China in 2009 and has been its general manager and chairman.

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, the issue to be addressed on appeal is whether the Petitioner satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i) - (x). In denying the petition, USCIS determined that the Petitioner did not satisfy any of the three claimed evidentiary criteria, namely published material about the individual; original contributions of major significance; and leading or critical role. 8 C.F.R. § 204.5(h)(3)(iii), (v), and (viii). In addition, USCIS 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 maintains that he qualifies for the three claimed criteria. He argues that USCIS' decision erred in law and fact. In particular, the Petitioner asserts USCIS mischaracterized evidence, misapplied the standards set forth in the USCIS Policy Manual, failed to give due consideration to his request for evidence reply, applied a standard of proof exceeding the preponderance of the evidence standard, and misapplied case law.

Upon de novo review, the Petitioner has not demonstrated he meets at least three of the initial evidentiary criteria.[1]

A. Evidentiary Criterion – Original Contributions of Major Significance in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for "evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." A petitioner may show that their contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013). Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

To meet the criterion, the Petitioner claims his original contributions of major significance in his field is based on him having been the lead individual responsible for drafting a national industry standard, [redacted] for disposable underwear products, which was issued by the [redacted] and registered with the [redacted] in 2019. In addition, the Petitioner claims "the standard has been adopted as an industry testing specification and is used by national brands that produce disposable undergarment products." As an example, the Petitioner asserts that [redacted] Ltd., a national wholesaler and retailer of textiles and clothing products, has applied the standard for product testing for its pre-sale of certain disposable undergarments.

While the Petitioner provided evidence indicating that he participated in the drafting of the standard, [redacted] he has not demonstrated that his participation constitutes an original contribution of major significance in his field in accordance with the regulations. In support of his assertions, the Petitioner submitted a copy of [redacted] which lists the Petitioner as one of eight drafters of the standard. The record, however, does not indicate the extent of the Petitioner's role in drafting the standard or how the Petitioner's role was leading in comparison to the other eight participants listed as drafting the standard. For instance, the Petitioner did not identify any new information that he provided to draft the standard. The Petitioner did not submit evidence corroborating his assertions that he was the lead individual responsible for drafting [redacted] or otherwise demonstrate his drafting the standard was an original contribution of major significance. The record lacks evidence to understand that the Petitioner's participation in drafting the standard reflects his original business contribution. Without further evidence, we are unable to determine whether the standard is the Petitioner's original contribution.

[1] While we may not discuss every document submitted, we have reviewed and considered each one.

Moreover, the Petitioner did not establish that his contributions are of major significance in his field. The Petitioner claims the standard he drafted has been widely implemented throughout his field. In support of his claims, the Petitioner emphasizes the importance of China National Institute of Standardization, submitting printouts of three pages from a website described as "China National Institute of Standardization" relating to [redacted] which includes information about [redacted] "Disposable Underpants" issued by the [redacted] on [redacted] 2019, and two pages from the website for [redacted] with a brief summary about [redacted] To show the standard has been used in the industry, the Petitioner submitted a test report dated in 2023 relating to product samples submitted for testing by the applicant, [redacted] Ltd. ([redacted]. The testing report indicates that [redacted] as the testing applicant, provided and confirmed the information included in the report. The report indicates that [redacted] applied standards [redacted] and [redacted] to test seven pre-sale disposable panties products manufactured by [redacted] Ltd. The Petitioner also submitted printouts from website pages providing company profile information for [redacted] and printouts from the website for China National Accreditation Service for Conformity Assessment providing a brief summary about the organization.

While the testing report indicates that [redacted] applied [redacted] for a portion of the testing, we note that it mainly utilized another standard, [redacted] as part of its sample testing. The extent of the testing's implementation of the Petitioner's contributions is not clearly evident based on the evidence. The single testing report does not show the extent of the standard's use in the Petitioner's field. For instance, the evidence does not indicate whether another testing standard may be utilized, or how the testing standard is of major significance in the field. We note that the testing report indicates that [redacted] Ltd., the company associated with the Petitioner, manufactured the tested pre-sale disposable undergarments. Without further evidence, the Petitioner has not established how his participation in drafting [redacted] is an original contribution of major significance in his field.

For the reasons discussed, the Petitioner has not shown that he has made original contributions of major significance in the field. We will therefore affirm USCIS' findings regarding this evidentiary criterion.

B. Reserved Issues

The Petitioner asserts that he meets eligibility for two additional criteria relating to published material at 8 C.F.R. § 204.5(h)(3)(iii) and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). Because the Petitioner did not fulfill the evidentiary criterion of original contributions of major significance, he cannot fulfill the initial evidentiary requirement of meeting three criteria under 8 C.F.R. § 204.5(h)(3). We, therefore, need not determine whether he meets the requirements of the criteria relating to published material and leading or critical role. Accordingly, we will 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).

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 v. USCIS*, 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 hereby decline to reach and reserve the Petitioner's arguments and eligibility for the final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

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.