U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43194121

Date: AUG. 18, 2026

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

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

The Petitioner, a chief executive officer (CEO) of a clean energy company in China, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This EB-1 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. Section 203(b)(1)(A)(i) of the Act.

USCIS denied the petition, concluding that the Petitioner had satisfied at least three of ten initial evidentiary criteria, but the totality of the material provided in a final merits determination did not show sustained national or international acclaim demonstrating that the Petitioner 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

To qualify for this immigrant visa category, petitioners must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics";
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the United States as an immigrant.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a petitioner can

demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award), he or she must provide sufficient qualifying documentation that meets at least three of the ten lesser evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence 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.

If a petitioner meets these initial evidence requirements, USCIS must 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 Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

The Petitioner earned an associate degree in Industrial Automation from [redacted] (Department of Electrical Engineering) in China. He is the general manager of [redacted], a technology and energy research firm that he established in 2004. The Petitioner claimed that in 2022 [redacted] produced its signature product line, the [redacted] Energy Storage System, a large capacity energy storage technology with safety, environmental protection and long life cycle.

On Form I-140, Immigrant Petition for Alien Workers, the Petitioner indicated that his job title is CEO and his job description is to "determine and formulate policies and provide overall direction of company." In his personal statement, the Petitioner claimed that he intends to establish a new company in the United States to develop and support clean technology innovation, introduce his "mature patented technologies, proprietary know-how, and management methods to the United States," and "achieve complete localization of all-vanadium flow battery energy storage projects in the United States." At the same time, the Petitioner stated that he will work for [redacted],[1] and provided a letter of intent from [redacted] president S-H- to hire the Petitioner as the director of battery storage project managements for "the [redacted] development," overseeing all aspects of the project's battery storage operation.

Because the Petitioner has not indicated or shown 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 claims to have satisfied six of these criteria, as summarized below:

- Membership in associations;
- Published material about the individual;
- Participation in judging works of others in the field;

[1] According to the letter of intent, [redacted] is a privately held real estate and energy investment firm headquartered in [redacted], Texas, founded in 2009.

- Original contributions of major significance in the field;
- Authorship of scholarly articles; and
- Leading or critical role in distinguished organizations.

8 C.F.R. § 204.5(h)(3)(ii), (iii), (iv), (v), (vi) and (viii).

USCIS determined that the Petitioner satisfied three out of the six claimed criteria at 8 C.F.R. § 204.5(h)(3)(iii) (published materials), (iv) (judging works of others), and (vi) (authorship of scholarly articles). However, in conducting a final merits determination, USCIS concluded that the record did not demonstrate his sustained national or international acclaim, that he was 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. *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.[2]

After evaluating the totality of the evidence, we adopt and affirm USCIS' decision pertaining to both the initial evidence requirements and the final merits determination with comments below. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *Chen v. INS*, 87 F.3d 5, 8 (1st Cir. 1996) (joining eight circuit courts in holding that appellate adjudicators may adopt and affirm the decision below as long as they give "individualized consideration" to the case). Here, USCIS thoroughly reviewed the record, discussed all six criteria claimed by the Petitioner, and articulated reasons why the Petitioner's evidence and assertions of eligibility fell short in demonstrating that he meets the requirements for classification as an individual with extraordinary ability.

As discussed in the denial, the Petitioner has not persuasively established how his work at [redacted] is indicative of a career of acclaimed work in the field or required sustained national or international acclaim to establish that he is one of the small percentage of CEOs at the top of his field. *See Matter of Price,* 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (providing USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard). Despite the Petitioner's claim that he has over twenty years of experience leading [redacted] the majority of documents in the record pertaining to media attention, patents, judging activity, scholarly articles, and contracts with other companies, are largely from the two years preceding the filing of this petition and do not adequately show the widespread recognition of his achievements and sustained acclaim consistent with extraordinary ability as a CEO. In addition, the Petitioner has not sufficiently documented his membership in various associations or the reputation of [redacted] demonstrating that he has risen to the top of his field.

On appeal, the Petitioner refers to the recent U.S. District Court decision, *Mukherji v. Miller*, No. 4:24CV3170, 2026 WL 895708 (D. Neb. Jan. 28, 2026),[3] and discusses the rationale behind the decision but concedes that it is a district court case from Nebraska and is not a binding precedential

[2] *See* 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).

[3] The court in *Mukherji* found that USCIS' adoption of the two-tiered system under *Kazarian* is not valid because it was implemented without the proper notice and comment rulemaking process.

authority.[4] Therefore, we will focus on addressing the Petitioner's specific contentions that USCIS erred in applying the second step of *Kazarian* analysis.

First, the Petitioner claims that USCIS imposed novel requirements outside the bounds of the regulations. Specifically, the Petitioner contends that USCIS erroneously required a "career of acclaimed work" in analyzing the evidence pertaining to his published articles, scholarly articles, and leading or critical role at [redacted], and evidence of his original contributions to reach "beyond his company."

However, we find the Petitioner's contentions unpersuasive. Although these exact words are not found in the plain language of the regulations, they are reasonably inferenced or derived from the statutory and regulatory language. In fact, the seminal House Judiciary Committee report accompanying the Immigration Act of 1990 used the exact wording, "career of acclaimed work," in defining the legislative intent and establishing the highly restrictive standard used for the extraordinary ability visa. *See* H.R. Rep. No. 101-723, 59 (Sept. 19, 1990) ("[a]n alien can also qualify on the basis of a career of acclaimed work in the field"). Additionally, in clarifying the criterion (v) (original contribution of major significance in the field), the USCIS Policy Manual indicates that "the person developed a patented technology that has attracted significant attention or commercialization may establish the significance of the person's original contribution to the field." *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1), Criterion 5. Based on this, USCIS can logically conclude that the Petitioner's patents do not indicate his high standing and recognition in the field that rises to the sustained acclaim demanded by this visa classification because they did not attract significant attention or commercialization "beyond his company." Therefore, we do not agree that USCIS imposed ultra vires requirements.

Secondly, the Petitioner contends that USCIS incorrectly attached certain frequency not found in the regulatory requirements when it concluded that producing "three research papers in a twenty+year timeframe" or judging activity's "frequency or level" was insufficient in demonstrating sustained national or international acclaim. However, the policy manual clearly dictates that in demonstrating sustained acclaim, a petitioner must show that he has maintained that acclaim over a period of time. *See* 6 *USCIS Policy Manual*, *supra*, at F.2(A)(1) (providing *Black's Law Dictionary's* 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"). Such demonstrations of sustaining or maintaining acclaim may require examining the frequency or repetition of achievements throughout one's career. As such, we do not agree that USCIS erred in these instances.

In conjunction with this claim, the Petitioner asserts that USCIS failed to articulate "a comparator standard" or explain what publication rate or frequency would suffice to characterize an individual as being at the very top of his field. But we note that the Petitioner has the burden of showing that he has risen to the top of his field and sustained acclaim to qualify as an individual of extraordinary ability. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (a petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence). This means that the Petitioner, not

[4] In contrast to the precedential authority of the case law of a U.S. circuit court originating within that circuit's geographic boundaries, we are not bound to follow a decision of a U.S. district court. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993).

USCIS, must demonstrate by preponderance of the evidence standard that other similarly qualified individuals at the top of his field have produced a certain number of publications or participated in a certain number of judging activities in the span of their career, and that he has reached the similar level as those at the top. Here, the Petitioner has not provided any independent or objective documentation to make such a comparison and evaluate his purported extraordinary ability.

Thirdly, the Petitioner claims that USCIS did not properly evaluate the weight of evidence he presented in support of unmet criteria in the final merits analysis, such as his membership in the China Society for the Study of the Private Sector Economy (CSSPE) or awards received by [redacted] purportedly showing distinguished reputation.

Regarding this claim, we note that when USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *See Abdel-Masieh v. U.S. I.N.S.*, 73 F.3d 579, 585 (5th Cir. 1996) (noting "[w]e do not require the BIA to specifically address every piece of evidence put before it"); *see also Cole v. Holder*, 659 F.3d 762, 772 (9th Cir. 2011). As such, we do not agree that USCIS' decision was erroneous because a particular piece of evidence was not specifically named in the final merits analysis.

Furthermore, in reviewing the Petitioner's membership in CSSPE and CSSPE's constitutions in the record, we find that the society is "a national, academic, non-profit organization voluntarily formed by individuals and related entities engaged in the study of China's private economy" and the membership requirements include "conscientiously study[ing] the theoretical system of socialism with Chinese characteristics," being "enthusiastic about private economy research work," and "recommendation by two or more council members or relevant units." But the record does not include any additional information to show that being part of CSSPE requires acclaim or achievements superseding the required recommendations. Therefore, the Petitioner's membership in CSSPE does not sufficiently show his sustained acclaim.

Similarly, the record does not include sufficient details about the honors or awards that the Petitioner's company received to establish that the company has a distinguished reputation and elevate the Petitioner as someone who has achieved a career of sustained acclaim or at the very top of his field. The Petitioner claimed that the company received awards or honors but only provided a list of "Company Honors" in the company's own informational materials (page 6 of Part 1, Company Introduction) and did not explain the significance, dates, and relevance of these honors demonstrating the company's distinguished reputation. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. In addition, the EB-1 classification requires a "very high standard . . . to present more extensive documentation than that required." *See* H.R. Rep. No. at 59; *see also* Proposed Rule for Employment-Based Immigrants, 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here, the Petitioner has not met his burden of presenting such extensive documentation with probative evidence.

Lastly, the Petitioner's contention that USCIS failed to apply the preponderance of the evidence standard to the record as a whole is not persuasive as he does not specifically point to such instances and generally claims that the record has "reliable indicators" of his acclaim. To determine whether a petitioner has met his burden under the preponderance of the evidence standard, we consider not only

the quantity, but also the quality (including relevance, probative value, and credibility) of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 376; *see also Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). Here, the record overall did not sufficiently include corroborating evidence to show that he is viewed by the overall field, rather than by a solicited few, as being among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). The recommendation letters in the record simply described the Petitioner's work without showing how it represents an individual whose achievements have been recognized in the field through extensive documentation. Additionally, the Petitioner did not establish that he has made impactful or influential contributions in the field reflecting a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act.

The evidence depicts a successful businessman whose company is in the process of building its reputation in the field of clean energy technology, but the record as a whole does not reflect recognition of an individual who has reached the top of his field with sustained acclaim and does not establish the Petitioner's eligibility for the benefit sought.[5] 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. at 954; *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 visa are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or 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. While he meets the initial evidence requirements, he has not sufficiently established his sustained national or international acclaim and that he is among the small percentage at the very top of his field. *See* section 203(b)(1)(A) of the Act; *Kazarian*, 596 F.3d at 1119-20.

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.

[5] *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).