U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43912394

Date: AUG. 25, 2026

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

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

The Petitioner, a financial professional, 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

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). 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 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 indicates he is a finance professional having worked in the United States, Mexico, and Latin America, with a focus on affordable housing development and finance. He is seeking to be classified as an alien of extraordinary ability in finance for affordable housing projects. He plans to continue working in his area of extraordinary ability by working for [redacted] LLC as its affordable housing finance director.

A. Evidentiary Criteria

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 while the Petitioner fulfilled one criterion, participation as a judge of others' work, he did not fulfill the five additional claimed evidentiary criteria:

- lesser nationally or internationally recognized awards or prizes,
- original contributions of major significance,
- authorship of scholarly articles in professional or major trade publications or other major media,
- leading or critical role for organizations with a distinguished reputation, or
- high salary or other remuneration in relation to others in the field.

8 C.F.R. § 204.5(h)(3)(i), (iii), (v), (viii), and (ix).

On appeal, the Petitioner claims that the evidence demonstrates he meets the five claimed criteria. After reviewing the evidence in the record, we agree with USCIS that the Petitioner has met the criterion for judging the work of others. In addition , we conclude that the Petitioner has demonstrated he meets at least three of the initial evidentiary criteria, as discussed below.[1]

1. "Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." 8 C.F.R. § 204.5(h)(3)(i).

USCIS determined that the Petitioner did not meet the criterion because he did not show that the 2022 LADI award is nationally or internationally recognized. We disagree with USCIS' assessment of the evidence and conclude that the Petitioner meets the criterion.

The Petitioner claims he meets the criterion based on his receipt of the 2022 Award. The record includes a certificate and a letter from the 2022 awards team stating that the Petitioner and another individual received the 2022 Award in the category of sustainable and triple-impact project for the project The letter provides background information about the award and the criteria considered in evaluating the projects for the award, including commitment to sustainable development, innovative technology in construction, and accessible high-quality housing. As pointed out in USCIS' decision, the letter also explains the scope of entries for the award, "+20 leading developers, architects, and urban planners across the region including countries such as Mexico, Brazil, Argentina, Colombia, Panama, and others."

In addition, the Petitioner submitted evidence that the awards are recognized nationally and internationally for excellence in his field. He submitted articles about the awards which were published in multiple publications. While some articles do not have authors and may be considered promotional materials, the Petitioner did submit an article authored by which discusses the 2022 awards and specifically mentions the award received by the Petitioner. The article was published in *Inversion Inmobiliaria*, a magazine publication in Costa Rica. The Petitioner submitted evidence indicating that magazine relates to real estate investment and has a presence in multiple Central America countries.

Based on the evidence submitted, the Petitioner demonstrated by a preponderance of the evidence that he meets this criterion. We withdraw the USCIS' findings to the contrary.

2. "Published material about the alien in professional or major media 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." 8 C.F.R. § 204.5(h)(3)(iii).

USCIS determined that the Petitioner did not meet the criterion because he did not show that the articles were published in a professional or major media trade publication or other major media. We disagree with USCIS' assessment of the evidence and conclude that the article titled, " qualifies for the criterion. Although the article is brief, the article is about the Petitioner and his work in the field and includes the title, date, and author. In addition, the Petitioner

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

submitted documentation from [redacted] about the circulation statistics and intended audience of the article's publication, *El Financiero*, showing it is major trade publication or other major media.

In addition, the Petitioner submitted a second article by [redacted] titled '[redacted]' The article was published on [redacted] 2025, in the magazine, *Obras por Expansion*. The article is about the Petitioner and his work in real estate development, in particular efficiencies in the construction process with [redacted] systems. In addition, the Petitioner submitted documentation about its circulation and its intended audience. The evidence indicates that the magazine publication is intended to inform its audience about business, finance, and the economy. Based on the evidence, the Petitioner has demonstrated that the publication is major trade publication or other major media.

Based on the evidence submitted, the Petitioner demonstrated by a preponderance of the evidence that he meets this criterion. We withdraw the USCIS' findings to the contrary.

B. Basis for Remand

The Petitioner has submitted the required initial evidence by satisfying at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3). However, granting three initial evidentiary criteria does not suffice to establish eligibility for classification as an individual of extraordinary ability.

The next step is to undertake a final merits determination to analyze whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim; that he is 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)(l)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian v. USCIS*, 596 F.3d at 1119-20; *see generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(2). A final merits determination involves analyzing an individual's accomplishments and weighing the totality of the evidence to determine if their achievements are sufficient to demonstrate extraordinary ability in the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d at 1119-20; *see generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(2).

Here, rather than making a final merits determination in the first instance, we will remand the matter. USCIS should consider any potentially relevant evidence of record, even it does not fit one of the regulatory criteria or is not comparable evidence. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(2). The Petitioner bears the burden of explaining the evidence's significance, and how it demonstrates his possession of sustained national or international acclaim and recognition in his field. *Id.* The petition's approval or denial should depend on the evidence's type and quality. *Id.*

III. CONCLUSION

The Petitioner has satisfied the initial evidence requirements for this classification. Accordingly, we will remand the matter to USCIS for a final merits determination. We express no opinion regarding the ultimate resolution of this case on remand.

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