U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39153629

Date: AUG. 26, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a postdoctoral bioelectronics researcher, 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 who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

SCOPS denied the petition, concluding that the record did not establish that the Petitioner qualifies as an individual of extraordinary ability either as the recipient of a one-time achievement that is a major, internationally recognized award, or as someone who initially satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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). 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. 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 Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a postdoctoral fellow at the [redacted] researching bioelectronics and is a specialist in protein nanowires and wearable sensors.

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must show that he satisfies at least three of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS determined that the Petitioner submitted evidence related to the criteria at 8 C.F.R. § 204.5(h)(3)(iv), (v), and (vi) and concluded that he satisfied only two criteria. Specifically, the Petitioner met his burden to demonstrate his service as a judge of the work of others and his authorship of scholarly articles under 8 C.F.R. § 204.5(h)(3)(iv) and (vi). However, SCOPS determined that the Petitioner did not establish his original contributions of major significance under 8 C.F.R. § 204.5(h)(3)(v).

The record indicates that the Petitioner has judged the work of others in his field by peer reviewing manuscripts for professional journals and that he has authored scholarly articles in professional publications, including [redacted] Therefore, we agree with the determination that the Petitioner satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi).

On appeal, the Petitioner alleges that SCOPS applied a higher standard than the preponderance of evidence standard in the adjudication of the petition and asserts that the petition may not have been evaluated in any meaningful way, pointing to the what the Petitioner considers to be generic language utilized in the RFE. Specifically, the Petitioner maintains that SCOPS did not adhere to the preponderance of the evidence standard as articulated in *Matter of Chawathe,* 25 I&N dec. 369 (AAO 2010). The Petitioner reiterates that the documents originally submitted, and the evidence included in response to the RFE, meet the preponderance of the evidence standard to show eligibility for the original contributions of major significance criterion. As indicated by SCOPS' analysis of the letters of support, the citation record, and reference to the emails from [redacted] the decision considered

the Petitioner's research, his role in the development of the eco-friendly sensors and innovative microbial biofilm designs for gas detection, as well as the electrically conductive protein nanowires. In reviewing SCOPS' decision, we do not identify any indication that the standard was raised beyond the preponderance of the evidence by demanding more evidence than the regulation calls for.

The Petitioner argues that he made original contributions of major significance at 8 C.F.R. § 204.5(h)(3)(v).[1]

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only have they made original contributions, but that the contributions have been of major significance in the field. For example, 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 at 134-35 (D.D.C. 2013).

The Petitioner claims to have made original contributions of major significance in the field, as evidenced by his published research, citation record, and letters from experts in the field, among other evidence. Specifically, he highlighted his contribution in the development of [redacted] a device that continuously produces electricity from humidity, his work engineering environmentally friendly sensors by leveraging the protein nanowires of microorganisms and developing new sustainable microbial biofilms that produce continuous electricity from evaporating water.

Although the Petitioner provided evidence reflecting the originality of his research through recommendation letters praising him for his contributions, the authors do not provide specific examples of contributions that are indicative of major significance. In general, the letters recount the Petitioner's research and explain the potential and possible future applications. While the writers detail that the Petitioner has advanced technologies within the field, the letters do not show how these advancements amount to a contribution of major significance.

The Petitioner submitted a letter from an Associate Professor at the [redacted] who discusses the Petitioner's accomplishments. Specifically, the Associate Professor explains that the Petitioner's "influential projects was his discovery of new techniques to generate continuous electric power from humidity, revolutionizing energy production methods. His device, known as [redacted] was built with conductive microbial protein nanowires." He provides that the Petitioner has addressed key challenges associated with generating electric power and developed a "humidity-based energy solution that is novel, effective, and continuous." Further he notes that "this innovative technology is well-suited for deployment in various locations for ubiquitous power generation."

---

[1] The Petitioner did not claim eligibility under 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (vii), (viii), (ix), or (x) before SCOPS or on appeal. As the Petitioner provides no evidence or arguments addressing these seven criteria on appeal, we consider these issues to be abandoned. *See Matter of R-A-M-*, 25 I&N Dec. 657. 658 n.2 (BIA 2012) (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived). *See also Sepulveda v. U.S. Atty. Gen.*, 401 F.3d 1226. 1228 n. 2 (11th Cir. 2005). citing *United States v. Cunningham*, 161 F.3d 1343, 1344 (11th Cir. 1998); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (finding plaintiffs' claims abandoned as he failed to raise them on appeal to the AAO).

A letter from a professor in the Department of Electrical and Computer Science at the [redacted] details the impact of the Petitioner's work, explaining that because the wearable devices don't rely on batteries which are heavy and require recharging, they are more convenient to use and open new avenues for developing improved wearable technology with an array of practical applications. He also states that the Petitioner has published peer-reviewed articles in prestigious journals.

Although the above letters recount the Petitioner's research and findings and make broad statements regarding the significance in the field, they do not contain sufficient information detailing how his work has been of major significance. In fact, the letters hypothesize on the effect of the Petitioner's research at some undetermined time in the future. For example, in his above letters, the professors opined that the Petitioner's work is "well-suited for deployment in various locations" and that his work opens new avenues with an array of practical applications.

Here, the letters do not show that the significant nature of his research has already been realized or has been implemented or utilized in a manner consistent with major significance. The letters discussed above primarily contain attestations of the novelty and utility of the Petitioner's work and research studies without describing a specific original contribution that has impacted the broader field of bioelectronics, or had an influence on subsequent work in the specific field.[2] The authors' assertions in the above-referenced letters do not explain how the Petitioner's research findings have been widely implemented in the field or establish that the Petitioner's work has had a demonstrable impact on the field as a whole commensurate with a contribution of major significance.

The Petitioner also submits his publication and citation record from Google Scholar. This evidence does not show that the impact of his work on the overall field of bioelectronics or nanomaterials rises to the level of an original contribution of major significance. The fact that the Petitioner has published articles that other researchers have referenced is not, by itself, indicative of a contribution of major significance, and the Petitioner did not specify how many citations were self-citations by him or any coauthors. Publications are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance." Rather, the appropriate analysis is to determine whether a petitioner has shown that his findings, factoring in citations and other corroborating evidence, have been considered important at a level consistent with original contributions of major significance in the field. Here without corroborating evidence, the record lacks an indication that the Petitioner's research has been considered important at the top level.

The record includes documentation from Clarivate Analytics showing that three of his articles were ranked among the top [redacted]% in the engineering field in 2023. In 2017 47 of his articles were in the top [redacted]% in this field. Comparative rankings to baseline or average citation rates do not automatically establish that a given petitioner has made a contribution of major significance in the field. A more appropriate analysis, for example, would be to compare the Petitioner's citations for individual articles to other similarly, highly cited articles that the field views as having been of major significance, as well as factoring in other corroborating evidence. Highly cited publications alone are not sufficient

[2] *See generally* 6 *USCIS Policy Manual*, F.2 Appendix, https://www.uscis.gov/policy-manual (providing guidance for the evaluation of evidence submitted under 8 C.F.R. § 204.5(h)(3)(i)-(x) and 204.5(h)(4)).

under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance," as a citation ranking does not provide sufficient context to determine the impact or importance of a given researcher's work in the field.

We also acknowledge that the Petitioner provided evidence that his work was highlighted by other researchers in articles. For instance, the Petitioner's work was described in the [redacted] in its discussion of protein nanowire-based sensor and again in a 2020 [redacted] paper where the authors analyzed the applications of moisture-induced electricity generators. The submitted research articles reference the Petitioner's work as evidence of the significance of his contributions. While the articles indicate that others have built upon the Petitioner's work, as well as the work of the other cited scientists, the Petitioner did not demonstrate that the overall field views his published findings as original contributions of major significance. Although documentation that published research has been highly cited may be probative of the significance of the contributions, here, the Petitioner did not show that his published articles rise to a level of "major significance," as required by this regulatory criterion. Further, the widespread nature of the Petitioner's citations is not necessarily indicative of the major significance of his work without the context to demonstrate the importance of the work.

In response to the request for evidence (RFE), the Petitioner asserts that his research has been utilized to further advance the field of bioelectronics as evidenced by references to his work in journals such as [redacted] among others. He discusses the fact that these articles implement the Petitioner's methodology to continue to create bioelectrical devices. While the evidence indicates that the Petitioner was part of the research team that made original contributions to this field of research, the significance of the contributions has not been realized beyond the theoretical value.

Further, also in the RFE response, the Petitioner asserts that his work has received notable coverage in media such as the [redacted] For example, he explains that the [redacted] presented the Petitioner's work and described how protein nanowires could harvest electricity from the air. However, this article also details how this technology is emergent and that researchers are still discovering how new energy materials will emerge from hygroelectricity. In response to the RFE, the Petitioner submits an article called [redacted] and maintains that this information demonstrates the utility of his work, stating that the results "demonstrate the potential of a biodegradable source of energy that could be used to power devices relying simply on ambient humidity." However, the article stresses the possible future benefits of the Petitioner's work and does not provide evidence to support the major significance of his research.

Considered together, the evidence consisting of the citations to the Petitioner's published findings, the citation statistics, the information regarding [redacted] and the reference letters from his fellow bioelectronic researchers and other experts, establishes that the Petitioner has been productive, and that his published data and findings have been relied upon by others in their own research. It does not demonstrate that the Petitioner has made a contribution of major significance in the field of bioelectronics. Therefore, he has not met this criterion.

III. CONCLUSION

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. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that they are 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*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *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).

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.