U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43931286

Date: AUG. 26, 2026

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

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

The Petitioner, a materials scientist, 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 although the record established that the Petitioner satisfied the initial evidentiary requirements, it did not establish, as required, that the Petitioner has sustained national or international acclaim and is an alien in the small percentage at the very top of the field. The matter is now before us on appeal under 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 immigrant visas available to aliens with 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. A petitioner must establish that the alien seeks to enter the United States to continue work in the area of extraordinary ability, and that their entry into the United States will substantially benefit the United States. The term "extraordinary ability" refers only to those aliens 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 international recognition of an alien's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence that meets at least three of the ten criteria 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 those

standards do not readily apply to the alien's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we assess whether the record shows sustained national or international acclaim and demonstrates that the alien 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 entered the United States in July 2018 as an F-1 nonimmigrant to study at the [redacted] which awarded her a doctorate in chemistry in 2023. Also in 2023, the Petitioner began working as a senior scientist at [redacted] in [redacted] Wisconsin.[1]

In a "Statement of Intent" submitted with the petition, the Petitioner stated:

> My expertise lies in designing nanoparticles that work in harmony with the body's natural processes to fight cancer more effectively and safely. By combining material science and medicine, my work has the potential to revolutionize cancer treatment and improve patient outcomes worldwide.
>
> I am committed to advancing this field further, exploring new applications of nanotechnology in cancer management, targeted drug delivery, and immune system modulation. My goal is to ensure that cutting-edge scientific discoveries translate into real-world medical benefits, making treatments more accessible, safe and effective for patients globally.

Because the Petitioner has not indicated or shown that she received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claimed to have satisfied four of these criteria, summarized below:

- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance;
- (vi), Authorship of scholarly articles; and
- (viii), Leading or critical role for distinguished organizations or establishments.

USCIS concluded that the Petitioner met three of the criteria, pertaining to judging, authorship, and leading or critical roles.

[1] The record shows that in September 2023 the Petitioner filed a Form I-140 petition seeking classification under section 203(b)(2) of the Act as a member of the professions holding an advanced degree, with a national interest waiver of the job offer requirement. USCIS approved that petition in October 2023. The approved petition involved a different immigrant classification with different eligibility requirements, and therefore its approval has no direct implications with respect to whether or not the Petitioner is eligible for classification as an alien of extraordinary ability.

Because USCIS concluded that the Petitioner submitted the required initial evidence, USCIS undertook a final merits determination to evaluate whether she has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim and that she is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation. A final merits determination entails analysis of an alien's accomplishments and weighing the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *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] In this matter, we determine that the Petitioner has not established eligibility.

In the final merits determination, USCIS stated that, although the Petitioner's evidence was sufficient to satisfy the requirements of three initial evidentiary criteria, that evidence did not place the Petitioner among the small percentage at the very top of her field.

On appeal, the Petitioner contends that the denial decision was erroneous because "USCIS . . . treated each satisfied criterion as though it had to independently prove that [the Petitioner] is among the small percentage at the very top of the field." The Petitioner asserts that her eligibility is evident "[w]hen the evidence is properly considered together" instead of the "fragmented analysis" in the denial decision. The Petitioner states: "The proper question is cumulative: whether [the Petitioner's] peer review work, scholarly authorship, citation record, leading and critical role at a distinguished organization, expert letters, patent-related evidence, and nanotechnology research collectively show sustained acclaim and recognized achievements in her field."

Nevertheless, the burden is on the Petitioner to establish that the record, as a whole, establishes the sustained national or international acclaim that the statute requires. On appeal, the Petitioner asserts: "When the evidence is properly considered together. . . [it] show[s] that [the Petitioner] is recognized as a scientist whose expertise is relied upon by journals, cited by researchers, and used by a distinguished organization in the biotechnology and pharmaceutical field." These traits, however, are not sufficient to show that she is among those researchers in the small percentage at the very top of the field.

The Petitioner states on appeal:

> The denial also gave insufficient cumulative weight to the expert evidence concerning [the Petitioner's] nanotechnology research. USCIS acknowledged that Associate Professor [redacted] [of the [redacted] Austria] discussed [the Petitioner's] composite nanoparticle platform and explained that her work addressed limitations in photodynamic therapy. USCIS also acknowledged that Professor [redacted] [redacted] of [redacted] University discussed [the Petitioner's] barium tungstate nanoparticle research and described how it addressed a central problem in radiation oncology: improving antitumor efficacy while reducing harm to healthy tissue. This evidence is directly relevant to the final merits analysis because it explains the scientific significance

[2] *See generally* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policy-manual (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established, by a preponderance of the evidence, the required high level of expertise for the immigrant classification).

> of [the Petitioner's] work, the use of her findings by other researchers, and the importance of her continued work in the United States.

After summarizing the letters from Prof. [redacted] and Prof. [redacted] USCIS concluded: "The evidence does not demonstrate the contributions noted have been implanted [sic] outside of the petitioner's employers." This conclusion is not accurate, as the authors of the quoted letters do not work for any company that has employed the Petitioner, or any university where the Petitioner has studied.

But while USCIS understated the Petitioner's impact, the record as a whole does not establish that her impact has resulted in the sustained national and international acclaim that the statute requires. Considering the totality of the record involves examining the context of the citation of the Petitioner's work; the available information about the other researchers citing that work; and the circumstances surrounding the Petitioner's past and present work.

Prof. [redacted] and his coauthors had cited a 2020 article in *Nanomedicine: Nanotechnology, Biology and Medicine* with regard to the effect of barium tungstate nanoparticles on intracellular oxygenation and radiosensitization. The record indicates the Petitioner's article had been cited 17 times since its publication in 2020. Prof. [redacted] team cited two articles to support the assertion that "the hollow structure of certain proteins facilitates the encapsulation of small-molecule drugs or metal nanoparticles." The Petitioner is a co-author of one of those two cited articles, which at the time of filing had accumulated 36 citations since its publication in 2021.

The Petitioner submitted statistical tables intended to establish that the citation rate of her published work places her in the upper percentiles of researchers in her field. The broad categories in these tables do not reveal how much of the citation data relates to subjects similar to those of the Petitioner's own work.

A résumé included with Prof. [redacted] letter indicates that Prof. [redacted] published work has accumulated 79,500 citations, with an *h*-index of 147, meaning that 147 of his articles have been cited at least 147 times each. In contrast, a *Google Scholar* printout submitted with the petition indicated that the Petitioner's work had been cited 276 times, with an *h*-index of 9. Prof. [redacted] résumé lists several other accolades and honors that the Petitioner does not claim to have earned. Taking this information into account, it is not readily evident that the Petitioner has reached the very top of her field.

It also bears noting that the Petitioner's published work, conference presentations, and patent applications all derived from her work as a graduate student, and the independent letters in the record all focus on that student work. With regard to the Petitioner's post-student activity, the letters from officials of [redacted] describe work more related to testing and compliance. Group Leader [redacted] stated that the Petitioner "is responsible for independently performing method development, validation, transfer, and the analytic testing of biopharmaceutical compounds." [redacted] who did not specify her own title, stated that the Petitioner "specializes in developing, validating, and troubleshooting cell-based bioassays. . . . Her work ensures drug stability and efficacy. . . . [The Petitioner's] contributions extend to method maintenance, routine stability testing, and analytical potency measurement of biopharmaceutical products."

Senior Scientist Dr. [redacted] described specific research activities by the Petitioner, but the subjects discussed appear to correspond to work the Petitioner had published years earlier. For instance,

Dr. [redacted] stated that the Petitioner's "work addresses a critical challenge in cancer diagnostics by developing a novel device for measuring alpha-fetoprotein (AFP) in blood samples." The record indicates that the Petitioner co-authored a paper on that subject in 2017. Dr. [redacted] also specified that he himself "specialize[s] in good manufacturing practice analysis" and that he "work[s] with [the Petitioner]," a description consistent with other letters from [redacted].

The Petitioner's documented shift from biomedical research to analysis of clients' products is highly relevant to the issue of *sustained* acclaim. This change in emphasis also raises the question of whether the Petitioner seeks to enter the United States to continue working in the area of claimed extraordinary ability as required by section 203(b)(1)(A)(ii) and the regulation at 8 C.F.R. § 204.5(h)(5). The "Statement of Intent" submitted with the petition did not acknowledge the Petitioner's recent work with [redacted] instead describing several of her earlier student projects. Yet the Petitioner specified that she intends to continue working for [redacted] She did not submit any evidence from [redacted] to indicate that the company intends for her to resume the research she had previously performed elsewhere as a student.

Thus, when we examine the record as a whole, we see that the Petitioner's student work produced published work that attracted some degree of attention in the field, while also indicating that others performing research in similar areas have published many more articles with substantially higher citation rates. The record as a whole also indicates that the Petitioner's more recent work for [redacted] has shifted away from the research she previously performed as a student, toward testing and compliance. Such work may be a valuable service for [redacted] clients, but the Petitioner has not shown that her work in that area has resulted in any significant recognition, let alone the sustained national or international acclaim that the statute and regulations demand.

The record indicates that the Petitioner's student research has added useful information to the pool of medical knowledge, and that her later work for [redacted] helps to ensure the quality of the products the company analyzes. But the record does not establish, by a preponderance of the evidence, that the Petitioner has earned sustained national or international acclaim.

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.

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. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that "EB-1 visas are intended to be available to only an exceedingly small amount of individuals with extraordinary ability"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design"); *Hamal v. Dep't of Homeland Sec.*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are "reserved for a very small

percentage of prospective immigrants"); *see also Hamal v. Dep't of Homeland Sec.*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian,* 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach).

In this case, the Petitioner has not shown the recognition of her work indicates the required sustained national or international acclaim, and does not show 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 she is among the small percentage at the top of his field. See 8 C.F.R. § 204.5(h)(2).

The Petitioner has not demonstrated eligibility as an alien of extraordinary ability. We will therefore dismiss the appeal.

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.