U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39360289

Date: AUG. 29, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an advanced data scientist, seeks classification as an individual of extraordinary ability in the sciences. *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, while the record established that the Petitioner satisfied three of the ten initial evidentiary criteria, as required, she had not demonstrated her extraordinary ability through sustained national or international acclaim and achievements that have been recognized in her field through extensive documentation. 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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material 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.

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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that , examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The Petitioner is an advanced data scientist in [redacted] India. At the time of filing, she was a senior specialist in data sciences at [redacted] focused on machine learning, graph mining, and natural language processing. She indicates that she will continue to work in this capacity in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has 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 initially claimed to have met four criteria relating to published material, judging, original contributions of major significance, and scholarly articles under 8 C.F.R. § 204.5(h)(3)(iii), (iv), (v), and (vi), respectively.

SCOPS determined that the Petitioner satisfied three of the claimed initial evidentiary requirements relating to published materials, judging, and authorship of scholarly articles, but did not meet the criterion relating to original contributions of major significance in the field at 8 C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner contends that SCOPS erred in concluding that she had not met the criterion related to original contributions of major significance in the field at 8 C.F.R. § 204.5(h)(3)(vi). However, regardless of whether SCOPS erred in making this finding, we do not

reach this issue on appeal because the Petitioner has shown that she satisfies the minimum requirement of at least three criteria, and we will therefore evaluate the totality of the evidence, including that relating to original contributions, in the context of a final merits determination, discussed below. *See Berardo v. United States Citizenship & Immigr. Servs.*, No. 3:19-CV-01796-SB, 2020 WL 6161459, at *3 n.2 (D. Or. Oct. 20, 2020) (declining to address applicant's argument that USCIS erred by failing to attribute certain evidence for criteria that USCIS concluded he had met as any error would have been harmless).

B. Final Merits Determination

In a final merits determination, we analyze an individual's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate 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.

In denying the underlying petition, SCOPS concluded that the totality of the evidence in the record was not sufficient to demonstrate that the Petitioner's sustained national or international acclaim, 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. On appeal, the Petitioner first argues that SCOPS did not afford her an opportunity to address newly identified deficiencies in these expert opinion letters. However, the record shows that SCOPS issued a request for evidence in which it advised the Petitioner of these deficiencies and that it considered the Petitioner's response in its decision.

The Petitioner further argues that SCOPS dismissed and discounted evidence relating to the published material and scholarly articles criteria, mischaracterized evidence relating to the judging criterion, and failed to properly consider expert opinion letters in the record. In support of this assertion, the Petitioner relies upon a non-precedent decision in which we found that evidence of sustained acclaim had been overlooked by the service center director and sustained the appeal. This decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Moreover, the record reflects that SCOPS appropriately considered this evidence in reaching its conclusion that the Petitioner had not demonstrated, by a preponderance of the evidence, her sustained national or international acclaim, 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.

As noted above, in a final merits determination, we analyze an individual's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate 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. We evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim, 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. *See generally* 6 *USCIS Policy Manual* F.2(A)(1), https://www.uscis.gov/policy-manual.

Here, the record reflects that the Petitioner has experienced some press coverage, authored scholarly articles, judged and served as a peer reviewer of the work of others, and has made contributions. However, in considering the totality of the evidence, the Petitioner has not demonstrated that her achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739.

Furthermore, the Petitioner has not shown that she has risen to that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991).

Regarding media coverage, the Petitioner offered seven articles published in 2019, 2023, and 2024 about her presentations at various conferences. While the published material indicates some attention to her and her work, the Petitioner did not establish that such reporting is consistent with a level of success among that small percentage who has risen to the very top of the field of endeavor, has achieved sustained national or international acclaim,[1] or has a career of acclaimed work. The Petitioner, for instance, did not show how the amount of her media coverage compares to others in her field who are among the very top. Further, the Petitioner did not demonstrate how her nominal press coverage reflects a career of acclaimed work in the field or shows that her achievements have been recognized in the field through extensive documentation. *See Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4 (D.D.C. June 8, 2021), *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (upholding plaintiff did not show his press coverage was indicative of a level of success consistent with being at the top of his field); *see also Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding the lack of press about the plaintiff was not consistent with national or international acclaim).

As it relates to the Petitioner's service as a judge of the work of others and her membership on technical committees for conferences, an evaluation of the significance of her experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian,* 596 F. 3d at 1121-22; *see also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (providing that the second step requires USCIS to evaluate the person's judging participation to determine whether it was indicative of the person being of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim.). In her brief, the Petitioner reviews the evidence related to this evidentiary criterion and asserts that these materials show her international recognition in the field. This documentation shows that she has reviewed the work of her peers for publication in three journals and has served as a member of the technical committee or as a reviewer for ten international conferences in her field. However, she does not discuss the relevance or significance of her judging involvement in the context of a final

[1] *See* 6 *USCIS Policy Manual*, *supra,* at F.2(A)(1) (according to Black's Law Dictionary (12th ed. 2024), the 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.").

merits determination. The Petitioner did not demonstrate, for example, how her judging experience compares to others at the very top of the field, or the significance of her work as a peer reviewer or technical committee member. *See Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801, at *2 (finding the petitioner did not provide needed context for his judging experience and the response to his work).

Further the Petitioner did not show, for instance, that she garnered wide attention from the field for her peer reviews of journal papers and conference papers or based upon her service as a member of technical committees. Without evidence that sets the Petitioner apart from others in her field, such as evidence that she has a consistent history of reviewing or judging recognized, acclaimed experts in her field, that she serves in an editorial position for a highly ranked or prestigious journal, or that she has chaired technical committees for reputable conferences, the Petitioner has not shown that her judging experience places her among that small percentage who has risen to the very top of the field of endeavor. *See Bhanu v. Garland*, No. 22-103, 2023 WL 6119357, at *9 (E.D. Pa. Sept. 18, 2023) (providing examples of evidence that the petitioner there could have provided to show that his peer review placed him among the very top of the field.)

Likewise, authorship and publication do not automatically place one at the top of the field. The Petitioner presented evidence showing that she has authored a total of 19 peer-reviewed works published in research journals, conference proceedings, and as book chapters. However, she did not demonstrate that her publication record is consistent with having a career of acclaimed work, sustaining national or international acclaim, and being among the small percentage at the very top of her field. The Petitioner, for instance, did not show the significance of her authorship or how her publication record compares to others who are viewed to be at the very top of the field. *See id.* (upholding the Petitioner did not show that the significance of authorships reflect that he is among the small percentage at the very top of the field).

In addition, the citation history or other evidence of the influence of the Petitioner's written work can be an indicator to determine the impact and recognition that her publications have had on the field and whether such influence has been sustained. For example, numerous independent citations for an article authored by the Petitioner may provide solid evidence that her work has been recognized and that others have been influenced by her work. Such an analysis at the final merits determination stage is appropriate pursuant to *Kazarian*, 596 F. 3d at 1122. In the record below, the Petitioner offered evidence, such as a Google Scholar document, showing that 12 of her research articles have been cited by others a total of 145 times,[2] and that a 2025 journal article had been cited a total of 34 times, as well as information about the journals and conference proceedings that published her articles. The Petitioner also provided evidence to demonstrate the frequency with which her articles had been downloaded or viewed. However, the Petitioner did not show her research articles received a level of interest in the field commensurate with sustained national or international acclaim or a career of acclaimed work. Further, the Petitioner did not show the impact or influence that her written materials have had on the field or otherwise show the significance or relevance of her publications. For example, while the Petitioner notes that her articles have been cited by researchers worldwide, she has not shown

[2] The Google Scholar document submitted by the Petitioner in responses to SCOPS' request for evidence reflects that the remaining articles have not been cited.

that she has distinguished herself from others in her field based upon these international or geographic citations, gaining national or international attention.

The Petitioner also offered letters of recommendation from independent experts. While we discuss only a sampling here, we have considered each one individually. Some of these letters discuss the Petitioner's citation and publication records, such as one from P-K- stating that the Petitioner "has established herself as an internationally recognized scholar through her extensive publication record." However, these letters do not indicate how the Petitioner's citation or publication record compares with others at the very top of her field. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (finding testimonial letters were insufficient to establish his relative status in the field and do not compare him to others).

These recommendation letters also praised the Petitioner's work and contributions. For example, P-K- praises the Petitioner for her "impressive achievements and pioneering contributions to her field", while S-I- describes the Petitioner's "adeptness at harnessing the potential of advanced data science techniques to revolutionize decision-making processes." Here, the letters are not sufficiently persuasive as they make general and expansive statements regarding the Petitioner and her accomplishments. *See generally* 6 *USCIS Policy Manual*, *supra,* at F.2(B)(3). Further, this correspondence does not demonstrate that the Petitioner has attracted a level of attention placing her at the very top of her field. Although the letters highlight the Petitioner's work, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar*, 2020 WL 777211, at *5 (finding the submitted letters failed to establish the plaintiff's contributions resulted in significant acclaim); *Mishra v. Richardson*, No. 120CV991LMBTCB, 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding that none of the plaintiff's letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim).

For the above stated reasons, the record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought. 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,"); *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2002) (stating that extraordinary ability is such an elite level of accomplishment); *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"). In this case, the Petitioner has not that the shown the significance of her work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. 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 her field. *See* 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual 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 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.