U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40737414

Date: DEC. 30, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is a data management platform specializing in streaming that seeks to classify the Beneficiary 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.

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Beneficiary had a major, internationally recognized award, nor did it demonstrate the Beneficiary warranted a favorable decision within the final merits determination. 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 to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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 sustain the appeal.

I. LAW

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The alien enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The alien's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. The term "extraordinary ability" refers only to those 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-step analysis. In the first step, 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). 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 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).

Where a petitioner meets these initial evidence requirements, we then move to the second step to 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-step 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).

II. ANALYSIS

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). SCOPS decided that the Petitioner satisfied five of the criteria relating to: published material, original contributions, authorship of scholarly articles, performing in a leading or critical role, and commanding a high salary or remuneration, but that it had not satisfied the criteria associated with prizes or awards. However, SCOPS further decided the Petitioner did not demonstrate the Beneficiary qualified for this immigrant visa within a final merits determination examining the totality of it evidence and claims. On appeal, the Petitioner maintains that it has made such a showing in the final merits determination and after reviewing all the evidence in the record, we agree that the highly restrictive nature of this immigrant classification has been satisfied.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence we will evaluate whether it has demonstrated, by a preponderance of the evidence, the Beneficiary's sustained national or international acclaim, that he is one of the small percentage at the top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if the Beneficiary's successes are sufficient to demonstrate that he has 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). *See generally* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policymanual (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 of the immigrant classification). In this matter, we determine that the Petitioner has not shown the Beneficiary is qualified and is eligible for this classification.

We begin noting that we do not agree with the Petitioner's statement that once he met at least three of the regulatory criteria, this "creates a rebuttable presumption: the beneficiary meets the legal standard for eligibility and shifts the burden of proof to then obligate USCIS to raise material challenges to specifically-identified requisite facts, or approve this petition." This may be how the Petitioner views or

considers the process to operate, but that is not the case and it did not offer any legal authority to support this statement. Once at least three criteria are satisfied, it remains the Petitioner's burden to also demonstrate to USCIS that a favorable decision is warranted when considering all of the evidence and claims collectively. *See Amin v. Mayorkas*, 24 F.4th 383, 388 (5th Cir. 2022) (finding that after a petitioner satisfies at least three criteria, "the agency then conducts a 'final merits determination' to determine whether, as a whole, the evidence is sufficient to demonstrate that the applicant meets the 'required high level of expertise'"). That same court stated "[t]he regulation does not say that meeting the regulatory criteria presumptively qualifies an applicant for a visa . . . . And the final merits determination speaks to the statute's requirement of 'extraordinary ability which has been demonstrated by sustained national or international acclaim.'" *Amin*, 24 F.4th at 391–92. This passage also illustrates the burden remains on a petitioner to satisfy the stated requirements in a final merits determination. So, there is no burden-shifting exercise onto USCIS at any point in this adjudicative process.

While the burden does not shift to USCIS, the agency is required to engage with the evidence and claims and evaluate those against the appropriate standards. The statute mandates that a filing party has the burden of proving eligibility for an immigration benefit. Section 291 of the Act. Further, the regulations are clear that the filing party bears the burden of proving eligibility by submitting evidence for consideration and adjudication. 8 C.F.R. § 103.2(b)(8)(i)–(iii). While an adjudicator must determine whether the evidence indicates that the party in question qualifies, that determination is an evidentiary one that does not stem from any burden on USCIS. *Cf. Matter of Negusie*, 28 I&N Dec. 120, 154 (A.G. 2020). Rather, USCIS' responsibility is to fully consider the evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, and to provide a reasoned decision of whether that material satisfies the filing party's burden of proof. *Matter of Chawathe*, 25 I&N Dec. at 376. We will perform that analysis here.

The Beneficiary co-founded the petitioning organization, a data management platform, and serves in his current role as its chief executive officer. Since establishing the data management platform, he has overseen its evolution from a developer tool into an enterprise-grade ecosystem and secured tens of millions of dollars in investor funding to aid its expansion in the United States.

SCOPS discussed many of the relevant areas to consider when they broadly mentioned the Beneficiary's achievements and concluded each area was not representative of one who is at the top of their field of endeavor. It appears that SCOPS did not evaluate the Beneficiary's achievements collectively, or in their totality, as is required. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(2). SCOPS also granted the contributions of major significance criterion at 8 C.F.R. § 204.5(h)(3)(v), but in the final merits stated he "and his company['s] contributions appear to be successful, however, the evidence does not indicate that [they] have had a 'major significance' on his field of endeavor." That statement runs contrary to the criterion's requirements in part one of this adjudication.

While the appeal brief and response to the notice of intent to deny could have fashioned a better organized argument of how the Petitioner has demonstrated the Beneficiary qualifies under the final merits determination, a review of the entire record leads us to conclude that the petitioning organization has met its burden in these proceedings. The Petitioner illustrates the transformative and unique nature of the services the Beneficiary has built, implemented, and overseen at the petitioning organization. Those efforts touch on several of the regulatory criteria that SCOPS granted in step one of their adjudication. Were we to only evaluate the Beneficiary's accomplishments separately aligning with each area covered

by the criteria, we too would not consider placing him among those warranting an approval under this immigrant classification. But just as a single strand of silk or wool appears plain and unspectacular on its own in a tapestry, individual achievements may seem common within a field of endeavor. However, when the tapestry's structural strands are intersected with the carefully woven colorful weft, they form a rich and unique pattern. The same can be said about the collective evidence in this record of proceeding.

The Beneficiary enabled the petitioning organization to simplify the use of a popular data streaming platform that is used by more than 80 percent of Fortune 100 companies. He shepherded and streamlined this platform that acts as a high-speed digital "postal system" of sorts for data that, instead of statically resting in a database, continuously flows in a complex stream of events. The Beneficiary's efforts have effectively lowered the barrier to entry for real-time data streaming by replacing complex coding and manual processes with a simplified interface that is useful to more working groups than only specialized data engineers. He has helped establish the petitioning company as a significant presence and a leading management layer for those using the data streaming platform.

The evidence in the record sets the Petitioner apart from others through a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. The petition in its entirety demonstrates that the Beneficiary possesses a level of expertise consistent with a finding that he is one of a small percentage at the very top of the field of endeavor and that he has sustained national acclaim in his field. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *Kazarian*, 596 F.3d at 1119-20. *See also Matter of Price*, 20 I&N Dec. 953, 956 (Assoc. Comm'r 1994).

III. CONCLUSION

The Petitioner has established that the Beneficiary meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). It has also demonstrated he enjoys sustained national and international acclaim and that his achievements have been recognized through extensive documentation. Lastly, the Petitioner has shown that the Beneficiary intends to continue working in his area of expertise and that he will substantially benefit prospectively the United States. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.