U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40795060

Date: FEB. 11, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a founder and CEO of a rapeseed oil production company in China, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This EB-1 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. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. 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

To qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the United States as an immigrant.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless 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), they must provide sufficient

qualifying documentation that meets at least three of the ten lesser evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if they are 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.

If a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) must 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 Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

The Petitioner is the president and founder of [redacted] (hereinafter [redacted]) in China. The Petitioner claimed tha[redacted] "is a leading agricultural company primarily engaged in the production, acquisition, processing, warehousing, and sales of grains, oils, and other agricultural by-products in [redacted] China, with 294 employees." The Petitioner previously worked as the general manager of [redacted] from 1998 to 2002 and has also served as the founder and president of the [redacted] since 2002.

A. Evidentiary Criteria

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

- Published material about the individual;
- Original contributions of major significance in the field;
- Performance in a leading or critical role for distinguished organizations or establishments; and
- Commanding of a high salary or significantly high remuneration relative to others in the field.

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

SCOPS determined that the Petitioner only met one criterion at 8 C.F.R. § 204.5(h)(3)(ix) (commanding a high salary or renumeration relative to others in the field). On appeal, the Petitioner asserts that he satisfies the remaining three criteria. After reviewing the evidence in the record, we conclude that the Petitioner meets one more criterion at 8 C.F.R. § 204.5(h)(3)(iii) (published material about the individual). However, we agree with SCOPS that the Petitioner does not satisfy other two criteria at 8 C.F.R. § 204.5(h)(3)(v) (original contribution of a major significance) and (viii) (performing a leading or critical role). Therefore, the Petitioner has not established he meets at least three of the initial evidentiary criteria, as discussed below.

1. High Salary or Significantly High Remuneration

This criterion requires "[e]vidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." 8 C.F.R. § 204.5(h)(3)(ix). Evidence regarding whether the person's compensation is high relative to that of others working in the field may take many forms. Examples may include, but are not limited to, geographical or position-appropriate compensation surveys and organizational justifications to pay above the compensation data. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1), Criterion 9.

We agree with SCOPS that the Petitioner meets this criterion. The Petitioner submitted his own income certificate and tax payment certificate from 2024 and comparative salary data from several sources, including PayScale, the Economic Research Institute, and PageInsights, sufficient to demonstrate that his salary was high in relation to other similarly employed CEOs in China.

Accordingly, this criterion has been met.

2. Published Materials

This criterion requires "published material about the alien in professional or major 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).

SCOPS concluded that the Petitioner did not meet this criterion as the published articles did not substantially discuss the Petitioner's work in the field and appear to be marketing materials about the company's products or services. On appeal, the Petitioner contends that these articles repeatedly mention his name and contained substantive discussion of his work as the founder and president of the company.

Upon review, we withdraw SCOPS' decision. The published articles feature the Petitioner's company's origin and vision, activities regarding its rapeseed oil industry, efforts to integrate aid and tourism projects into the business model, and the Petitioner's role in all these advancements. The articles address not just the company itself but the Petitioner's role in leading this company. In addition, the Petitioner submitted information regarding the Chinese newspapers and magazines that have produced these articles along with the dates and authors and showed that they are major business publications in China.

Therefore, we conclude that the Petitioner has met this criterion.

3. Original Contributions of Major Significance

This criterion requires "[e]vidence 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). For this criterion, the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. *See generally* 6 *USCIS Policy Manual, supra*, at

F.2(B)(1), Criterion 5. For example, a petitioner may show that his contributions have been widely implemented throughout the field, or have otherwise risen to a level of major significance in the field. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (for a petitioner's contributions to be "of major significance," evidence must demonstrate that their work has been widely adopted or replicated by industry actors unaffiliated with them).

The Petitioner offered several patents filed with the National Intellectual Property Administration in China, including "a grapeseed impurity removal device," "a cooling device for grain and oil processing production," "an oil press oil residue scraping and recovery device," and "a flow guide mechanism for oil press to prevent oil leakage." The Petitioner asserted that these patents are original contributions rising to a level of major significance in the field of agricultural manufacturing and submitted copies of executed contracts with other agricultural manufacturing companies in China for use of these patented devices. The Petitioner also provided letters from some of these manufacturing companies that have entered agreement with [redacted] his colleagues and business partners, a local community government leader, and other professional acquaintances.

Although evidence that an individual's work has been patented may potentially demonstrate the work's originality, it will not necessarily establish that the work is of major significance to the field, without more. *See* 6 *USCIS Policy Manual* F.2(B)(1), *supra*. For example, evidence that the person developed a patented technology that has attracted significant attention or commercialization may establish the significance of the person's original contribution to the field. *See id.*

Here, while the Petitioner provided copies of registered patents of various oil processing devices, the supporting letters do not offer probative details on how any one of the patented processes or devices had attracted significant attention within the field. The letters generally praise the Petitioner's entrepreneurial endeavor, his expertise in sustainable agriculture practices and business development through his company, and the impact on the local community and his customers, but do not offer insight into how these specific patents are significantly utilized in the field of agricultural manufacturing overall. *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. 2013) (finding the term "major significance in the field" can be reasonably interpreted to mean that there must be some impact "in the field as a whole"); *Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, at *5 (N.D. Tex. Nov. 29, 2022) (stating that "[c]ourts have routinely affirmed agency decisions that held § 204.5(h)(3)(v) 'requires substantial influence beyond one's employers, clients, or customers').

Therefore, the Petitioner has not identified any original contributions of major significance in his field.

4. Leading or Critical Role

To meet this requirement, a petitioner must provide "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii). A critical role means an alien contributed in a significantly important way to the activities of the organization, establishment, division, or department. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.(2)(B)(1), Criterion 8. Next, the Petitioner must establish that the organization, establishment, division, or department has a distinguished reputation. The word "distinguished" ordinarily means "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Distinguished*, Merriam-Webster Online Dictionary, www.merriam-webster.com. Relevant

considerations in determining whether an organization is "distinguished" include not only its relative size and longevity but also other factors, such as the scale of its customer base or relevant media coverage of it. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.(2)(B)(1), Criterion 8.

The record demonstrates that the Petitioner founded [redacted] in 2013 and has worked as the CEO. The record also provides general information about the company and its products, such as an organizational chart, photos, business license, website pages, contracts, and publications regarding the Petitioner's involvement in the company's activities. Based on the information in the record, we conclude that the Petitioner has performed in a leading or critical role for [redacted].

However, the record does not establish that the Petitioner's company has a distinguished reputation. Reputation is a measure of outside perception, and therefore simply submitting general and internal information about the company, such as letters from officials of that company, projects that a company undertook, or awards that the company received as a result of those projects, does not sufficiently establish a company's reputation. The Petitioner must also provide a basis for comparison to show that company is distinguished in relation to other companies in the same industry. In this case, the Petitioner has not provided evidence to show that [redacted] has distinguished reputations in comparison to other manufacturing firms in China. Although the Petitioner asserted that [redacted] is "the largest all-natural cold-processing rapeseed/canola oil manufacturer in Northwest China, equipped with advanced international processing and packing lines, and has a total project investment of . . . approximately 138 million USD [U.S. dollars]" and the documents generally show that the company is well-established and successful, the Petitioner has not provided the scale of its customer base or other media coverage relative to other companies of the same nature to evaluate its distinction and eminence.

Therefore, the Petitioner has not met the requirements of this criterion.

B. Final Mertis Determination

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 he is 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*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 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).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated eligibility as an individual of extraordinary ability. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

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.