U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40361745

Date: FEB. 13, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a data 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(b0(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 the record did not establish that the Petitioner qualifies as an alien of extraordinary ability either as the recipient of a major, internationally recognized award, or that the Petitioner meets at least three of the ten initial 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 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 sustained acclaim and the 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 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 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 asserts that he is "a highly acclaimed and accomplished leader in the business technology fields." His employment letter indicates that he began working as a data architect for [redacted] in 2020. The Petitioner intends to continue his employment in the data architecture field in his role as a data architect at [redacted].

A. Evidentiary Criteria

Because the Petitioner has not indicated or demonstrated that he has received a major, internationally recognized award, he must instead satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(ii)(i)-(x). The Petitioner claimed to meet six criteria: receipt of lesser nationally or internationally recognized prizes or awards (i); membership in associations (ii); judge of the work of others (iv); original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field (v); authorship of scholarly articles in the field (vi); and performed in a leading or critical role (viii). SCOPS evaluated the claims the Petitioner made in the initial petition and in response to the request for evidence and concluded the Petitioner only satisfied one criterion, judge of the work of others. On appeal, the Petitioner claims to meet all six criteria. While we may not discuss every document in the record, we have reviewed and considered each one. Based on our de novo review, we conclude the Petitioner has not demonstrated eligibility for this highly restrictive immigrant classification for the reasons we will discuss below.

On appeal, the Petitioner also argues that the recent United States Supreme Cout decision in *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024) eliminated the requirement for a final merits determination outlined in *Kazarian*. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). He asserts that *Buletini* is controlling law, requiring only that a petitioner satisfy three criteria to establish a presumption of extraordinary ability, and that the petition should be approved unless the agency can articulate "specific and substantiated reasons" for denial. *Buletini v. INS*, 860 F. Supp. 1222, 1232-34 (E.D. Mich. 1994). The Petitioner further contends that it is an abuse of discretion for SCOPS to "deviate from the criteria" set forth in the agency's own regulation. Additionally, the Petitioner maintains that he has submitted "ample evidence to probably satisfy three or more criteria."

While we acknowledge the Petitioner's assertions, the Petitioner has not provided any support for his assertions and appears to misinterpret *Loper*'s reach. *Loper* overturned *Chevron USA v. Natural Resources Defense Council*, 467 U.S. 837 (1984), in holding that federal courts need not defer to agencies' reasonable interpretations of ambiguous federal laws. Therefore, *Loper* provides the judiciary with the sole prerogative to "say what the law is," stating: "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority." *Loper*, 144 S. Ct. at 2257, 2273. While, *Loper* guides federal courts that review our interpretation of ambiguous statutes, it does not modify our own adjudication of immigrant petitions.

Moreover, *Loper* does not change how we interpret such laws or mandate, as the Petitioner suggests, an immediate change in how USCIS adjudicates immigrant petitions for aliens of extraordinary ability. Similarly, *Loper* involved an agency's interpretation of a statute. *Id.* at 2254-56. SCOPS' denial of this petition, and our adjudication of this appeal, rest on a determination of whether the Petitioner met his burden to demonstrate that he meets at least three of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x); it is not based on the agency's interpretation of a statute. Even if the regulations are ambiguous, our interpretation of them would merit deference under *Auer v. Robbins*, 519 U.S. 452 (1997), which *Loper* did not reverse. *See, e.g., United States v. Boler*, 115 F.4th 316, 322 n.4 (4th Cir. 2024) (declining to apply *Loper* to an issue involving an agency's interpretation of its own regulations). Accordingly, we are not persuaded by the Petitioner's assertions and will conduct a de novo review of the record considering the two-part analysis described in *Kazarian* and in the USCIS Policy Manual.

1. Receipt of Lesser Nationally or Internationally Recognized Prizes or Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner claims eligibility for this criterion based on his participation on a team that received a [redacted] for "Customer Service Team of the Year" in 2024 from The [redacted]. The Petitioner asserts that this award was given to [redacted] team for its "excellence in customer engagement and service innovation." He further states that his "groundbreaking work" on the [redacted] and the '[redacted]' initiative "directly contributed" to the recognition. In support of his claim, the Petitioner submitted letters from [redacted] personnel describing his prior projects, including his involvement in the [redacted], his technical expertise, and his contributions to [redacted].

SCOPS determined that this criterion was not met because the award did not list the Petitioner by name and was given to a group rather than directly to the Petitioner. SCOPS also concluded that the Petitioner did not demonstrate that the award is nationally or internationally recognized for excellence in the field.

On appeal, the Petitioner contends that the regulation does not require the Petitioner to be the named recipient of the award in order to qualify. The Petitioner further argues that the USCIS Policy Manual

"permits petitioners to rely on team awards where the record establishes a beneficiary's role in the award-winning achievement." The Petitioner also references letters from [redacted] affirming that he had led the systems and initiatives recognized by the award. He further asserts that the [redacted] are nationally and internationally recognized, as they were established to honor the achievements and contributions of organizations and working professionals worldwide, are conferred through a rigorous peer-reviewed process, and include criteria directly related to his field of endeavor. The Petitioner also contends that he played a "critical and leading role in developing the platforms recognized by the award."

However, while the record reflects that the Petitioner contributed to the projects, the evidence is insufficient to demonstrate that the Petitioner himself was the direct recipient of the award. A team award may qualify a person under 8 C.F.R. § 204.5(h)(3)(i) so long as the person actually received the award in question from the awarding organization. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) and F.2 fn.19 (explaining that "the focus should be on the person's receipt of the awards or prizes, as opposed to the employer's receipt of the awards or prizes," and that "[m]ere acknowledgement from the award recipient does not constitute receiving the award from the awarding authority"). A person's receipt of a team award may be demonstrated if, for example, they appear on stage to accept the award, if they personally receive a trophy, medal, or certificate, or if the awarding organization specifically names them as a winner in their announcement of the award selection. *Id.* The Petitioner has not provided any such evidence here.

Similarly, while the award is a reputable business award, the record does not demonstrate that the award is a nationally or internationally recognized award for excellence in the field of endeavor. Accordingly, the evidence does not demonstrate that the Petitioner meets this criterion.

2. Membership in Associations

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for "documentation of the alien's membership in associations in the field for which classification is sought." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained outstanding achievements in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

General membership in an international organization for engineering and technology professionals may not meet the requirements of the criterion. However, if that same organization at the fellow level requires, in part, that a nominee have accomplishments that have, for example, contributed importantly to the advancement or application of engineering, science, and technology, and that a council of experts and a committee of current fellows judges the nominations for fellows, that higher, fellow level may be qualifying. *See, generally*, 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

Another possible qualifying example may include membership as a fellow in a scientific society dedicated to artificial intelligence if the membership is based on recognition of a nominee's significant, sustained contributions to the field of artificial intelligence, and a panel of current fellows makes the selection of new fellows. *Id.*

Relevant factors that may lead to a conclusion that the person's membership in the association(s) was not based on outstanding achievements in the field include, but are not limited to, instances where the person's membership was based solely on the following factors (by themselves or in the aggregate):

- A level of education or years of experience in a particular field;
- The payment of a fee or by subscribing to an association's publications; and
- A requirement, compulsory or otherwise, for employment in certain occupations, as commonly seen with union membership or guild affiliation for actors.

Id.

The Petitioner is a Fellow of the British Computer Society (BCS). A letter from BCS confirmed the Petitioner's Fellow status and stated:

> Fellowship is the highest level of membership offered by BCS and is reserved for those members of the IT community in the highest echelon of leadership, influence and impact. BCS Fellows make up around 4% of our current BCS members. . . .
>
> . . . .
>
> The BCS Fellowship is awarded following a highly rigorous selection process, accepting only the most distinguished IT professionals and tech leaders working in the field. To achieve BCS Fellowship, the applicant must be an outstanding leader in IT. . . .
>
> Fellowship applications are assessed by BCS Fellows and further reviewed by our Fellowship executive committee. The Fellowship application process is overseen and approved through our governance structure.

The letter cited BCS's bylaws as "[f]urther confirmation" of the above assertions. Paragraph 6 of the bylaws indicates that Fellowship is available to "[a]ny persons who . . . have established to the satisfaction of the Trustee Board that they have enjoyed not less than five years' responsible experience, and have an established reputation in Computing."

SCOPS determined that this criterion was not met because the evidence did not demonstrate that BCS requires outstanding achievements as a condition of its Fellowship members. Specifically, SCOPS stated:

> While this organization requires professional achievements of its members, the association's information does not state they require outstanding achievements. It appears that the main requirement to join this association is education and work experience, not outstanding achievements.

On appeal, the Petitioner contends that the Fellow membership is only conferred after "a rigorous peer-reviewed process by existing Fellows who are nationally and internationally recognized experts

in the field." He further asserts that the Fellow membership is reserved for those with "outstanding leadership" and "significant contributions to the advancement of computing."

However, although the record indicates that the BCS Fellowship membership requires a "rigorous peer-reviewed process" and substantial documentation, the evidence does not establish that outstanding achievements in the field are a mandatory prerequisite for membership. As noted above, the only requirements specified in paragraph 6 of the bylaws are five years of experience and "an established reputation in computing." The Petitioner did not provide sufficient documentation explaining how the BCS defines the term "established reputation," but there is other record evidence that sheds light on the requirements to become a Fellow of the BCS. This evidence does not support the Petitioner's assertion that "established reputation" is synonymous with "outstanding achievements."

A BCS Fellowship application in the record asks for information about "accredited certification" and experience. Under the "experience" category, an applicant must meet "four Fellowship sub-criteria" from a list of criteria. For example, one criterion, body of work, includes a list of sub-criteria such as invention and innovation and entrepreneurship. Another criterion, professional impact, includes a list of sub-criteria such as inspiring others and interdisciplinary collaboration. However, the Petitioner has not demonstrated by a preponderance of the evidence that any of the criteria or sub-criteria require evidence of outstanding achievements to meet the Fellowship membership requirements.

Therefore, the Petitioner has not established that outstanding achievements are necessary to become a Fellow of the BCS. While only a small minority of BCS members are Fellows, the record does not show that the requirements for Fellowship reach the level of outstanding contributions that the regulations require. Accordingly, the evidence does not demonstrate that the Petitioner meets this criterion.

3. Original Contributions of Major Significance in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for "evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 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*, 4 F. Supp. 3d at 134-35. Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 USCIS Policy Manual F.2(B)(1), www.uscis.gov/policy-manual.

In the initial petition, the Petitioner asserted that he has made original contributions of major significance in the field of strategic marketing. Specifically, the Petitioner stated that he contributed to [redacted], which he described as foundational to the company and instrumental in generating substantial revenue. He further claimed that he architected and implemented two initiatives, the [redacted]

[redacted] and "[redacted]," which he characterized as groundbreaking. The Petitioner also emphasized that the team received the [redacted], which he asserted highlighted the company's role in setting new standards for customer engagement. In support, the Petitioner submitted letters from individuals at [redacted] describing his contributions to various projects and initiatives. These letters also discuss how the Petitioner influenced internal operations and contributed to the "broader ecosystem of the company."

SCOPS concluded that, while the Petitioner demonstrated that he is active in his field and has made valuable business-related contributions, the evidence did not establish that his work constitutes original contributions of major significance. Specifically, SCOPS found that the record did not demonstrate that the Petitioner's contributions extend beyond [redacted] and its clients or that they have been "major significance to the field as a whole." On appeal, the Petitioner argues that SCOPS improperly heightened the regulatory standard by requiring proof of contributions of major significance to the field as a whole, rather than contributions of major significance in the field. He maintains that he developed [redacted] and above-mentioned systems and have "redefined how the company uses [artificial intelligence] and analytics to drive sales engagement strategy." He also asserts that his innovations have generated substantial revenue for the company.

However, the regulatory criterion requires evidence demonstrating that a petitioner's original contributions have had a demonstrable and significant impact beyond a single organization. While the Petitioner's accomplishments demonstrate meaningful contributions to [redacted] the record is insufficient to demonstrate significant contributions to the field of strategic marketing, or other relevant fields. Moreover, the support letters do not sufficiently demonstrate that the Petitioner's work constitutes major, significant contributions to the field of strategic marketing. The Petitioner must establish that his original contributions have been "of major significance in the field." *See* 8 C.F.R. § 204.5(h)(3)(v). Here, while we acknowledge the recognition the Petitioner received from [redacted] and his peers, the evidence does not rise to the level of "original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." Accordingly, the evidence does not demonstrate that the Petitioner meets this criterion.

4. Authorship of Scholarly Articles

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) calls for "evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." In academia, a scholarly article reports on original research, experimentation, or philosophical discourse, is generally peer reviewed, and may be published in professional or scientific journals or conference presentations. In other fields, a scholarly article should be written for others having profound knowledge in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

To determine whether the publication qualifies as a professional or major trade publication or other major media, we consider such relevant factors as the circulation or readership relative to other media in the field and the intended audience (for professional journals). *Id.*

The Petitioner claimed eligibility for this criterion based on his authorship of articles published in journals and other platforms in the field of artificial intelligence (AI), data architecture, and AI-driven and sales strategy. He asserted that these articles were directed toward "learned professionals in the

field of sales technology and artificial intelligence." The Petitioner also stated that he authored a book titled [redacted], which was published on Amazon Kindle in 2024. He also emphasized that his book is targeted to "professionals in data architecture and AI marketing" and has received five-star reviews and industry recognition. Additionally, the Petitioner claimed that his articles have been cited and that he has received over 100 citations as of 2024.

SCOPS determined that the Petitioner did not meet this criterion because the evidence did not establish that the articles were published in professional publications, major trade publications, or other major media. SCOPS further noted that the Petitioner did not submit circulation or readership statistics for the publishing sources and did not provide evidence demonstrating that the journals are reputable or qualify as professional or major trade publications or other major media. On appeal, the Petitioner contends that SCOPS improperly applied an academic standard designed for scholarly articles rather than the standard applicable to other fields. He maintains that he has written multiple articles on enterprise analytics, AI, and data systems, including peer-reviewed publications in the *International Journal for Multidisciplinary Research* and other journals. He further claims that these journals "cater to a professional audience of researchers and apply rigorous criteria for originality, technical soundness, and relevance prior to publication." The Petitioner also argues that SCOPS imposed an "unsupported requirement" by requesting a two-week publication process for scholarly journals and seeking circulation data.

As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. *Id.* at F.2(B)(1). It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. *Id.* Scholarly articles are generally peer reviewed by other experts in the field of specialization. *Id.* In general, it should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article. *Id.*

Here, the record does not show that the Petitioner's journalistic articles contain the characteristics of scholarly articles, as considered in the academic arena. The Petitioner did not establish that he wrote the articles as a researcher or expert. Furthermore, the Petitioner did not provide sufficient documentation demonstrating that his articles contain the features of academic scholarly publications, such as footnotes or bibliographies. For these reasons, the Petitioner did not show that his journalistic articles qualify as scholarly articles within the purview of academia.

For other fields, a scholarly article should be written for learned persons in that field. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1). Learned persons include all persons having profound knowledge of a field. *Id.* Here, the Petitioner has not demonstrated that his journalistic articles were written for learned persons in the field of sales technology and artificial intelligence or for other particular learned persons.

The Petitioner claims to have authored articles that explore "cutting-edge applications of AI and data analytics" and contribute "original thought and experimentation in the field." We note that these assertions are misplaced and are generally material to the criterion at 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner maintains that he has published scholarly articles "in outlets that are plainly professional in nature." He claims that he has submitted supporting documentation, including digital object identifiers, website printouts, and citation records. However, the Petitioner has not submitted sufficient evidence to demonstrate that his articles are professional publications and were written for learned persons in the field of sales technology and artificial intelligence. For example, the Petitioner did not provide sufficient evidence to demonstrate that the platforms for his publications target learned persons in the Petitioner's specific field rather than a general audience or readers who subscribe to the online publications.

The Petitioner also has not established that any of the online publications are geared toward persons having profound knowledge in sales technology and artificial intelligence. Although the Petitioner claims that he has authored and published articles in "internationally recognized journals and platforms" and contends that these publications were directed toward "learned professionals in the field of sales technology and artificial intelligence," the record lacks sufficient evidence to demonstrate the audience of those publications.

Similarly, the Petitioner has not demonstrated that the audience of his book [redacted], are learned persons as he has not submitted sufficient evidence to establish the book's audience and its actual readership. In addition, we note that the evidence does not show that his book qualifies as a professional or major trade publication, or other major media. For all these reasons, the Petitioner did not demonstrate he fulfills this criterion.

B. Reserved Issue

We note the Petitioner claims he meets an additional criterion related to, leading or critical role for organizations or establishments that have a distinguished reputation (viii). However, as noted above, the Petitioner's unsuccessful demonstration of his eligibility under the criteria we discuss means he cannot numerically meet the required number of at least three criteria out of the 10 available and the six he claimed. Accordingly, we need not address the Petitioner's claimed eligibility for the eight criterion. We, therefore, reserve that issue. *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).

C. Final Merits Determination

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, 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

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.").

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.