U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 38989460

Date: FEB. 24, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a dancer, dance choreographer, and dance coach, requests 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). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition. SCOPS noted the Petitioner met the category's evidentiary requirements but, in a final merits determination, concluded that he did not demonstrate his claimed extraordinary ability as a dancer, dance choreographer, and dance coach. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner contends that SCOPS overlooked and undervalued evidence.

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 he or she:

- Has "extraordinary ability in the sciences, acts, education, business, or athletics;"
- Seeks to continue work in his or her field of expertise in the United States; and
- Would substantially benefit prospectively the country as a permanent resident.

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

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).[1] 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).

If a petitioner meets either evidentiary standard and the requirements of section 203(b)(1)(A)(ii), (iii) of the Act, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination. To merit approval, the record – as a whole – must establish a petitioner's "sustained national or international acclaim" and recognized achievements placing him or her among the small percentage at the very top of his or her field. *See 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), https://www.uscis.gov/policy-manual.

## II. ANALYSIS

The Petitioner does not claim a one-time achievement, such as a major, internationally recognized award. So, he must provide evidence of meeting at least three of the evidentiary criteria contained at 8 C.F.R. § 203.5(h)(3)(i)-(x). SCOPS concluded the Petitioner met the following criteria:[2]

- receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor (8 C.F.R. § 204.5(h)(3)(i));
- participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought (8 C.F.R. § 204.5(h)(3)(iv);
- authorship of scholarly articles in the field, in professional or major trade publications or other major media (8 C.F.R. § 204.5(h)(3)(vi);
- display of the person's work in the field at artistic exhibitions or showcases (8 C.F.R. § 204.5(h)(3)(vii); and
- performance in a leading or critical role for organizations or establishments that have a distinguished reputation (8 C.F.R. § 204.5(h)(3)(viii)).

But, in the final merit's determination, SCOPS determined the Petitioner did not demonstrate that he is one of that small percentage who have sustained national or international acclaim to have risen to the top of his field of endeavor.

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[1] If an evidentiary criterion does not "readily apply" to a petitioner's occupation, he or she may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

[2] Although the Petitioner initially claimed eligibility under the criteria contained at 8 C.F.R. § 204.5(h)(3)(ix) and (x) (command of a high salary or other significantly high remuneration for services in relation to others in the field and commercial successes in the performing arts as show by box office receipts or record, cassette, compact disk, or video sales), he did not pursue his eligibility under the criteria in response to SCOPS' request for evidence (RFE) or on appeal. So, we consider his claims under those grounds of eligibility abandoned. Nevertheless, we have considered the evidence the Petitioner submitted in support of his initial claims to these criteria and conclude that it does not demonstrate recognition of an achievement highlighting the Petitioner's sustained national or international acclaim such that he is one of the small percentage at the very top of the field of endeavor.

As stated previously, SCOPS concluded the Petitioner met five of the ten criteria contained at 8 C.F.R. § 204.5(h)(3)(i)-(x). And, upon our de novo review, we conclude that the Petitioner met the criterion contained at 8 C.F.R. § 204.5(h)(3)(iv) and (vii) concerning participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought and display of the person's work in the field at artistic exhibitions or showcases respectively. And we agree with SCOPS' conclusion that the Petitioner did not demonstrate eligibility under the criteria contained at 8 C.F.R. § 204.5(h)(3)(ii), (iii), and (v) respecting his membership in associations in the field which require outstanding achievements of their members as judged by recognized national or international experts in the discipline or field, published material about the Petitioner in profession or major trade publications or other major media relating to his work in the field, and original artistic contributions of major significance in his field. But we withdraw SCOPS' conclusions and conclude the Petitioner did not demonstrate eligibility under the criteria contained at 8 C.F.R. § 204.5(h)(3)(i), (vi), and (viii) respecting his receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor, authorship of scholarly articles in the field, in professional or major trade publications or other major media, and performance in a leading or critical role for organizations or establishments that have a distinguished reputation for the following reasons. And we affirm SCOPS' final merits determination.

A. Evidentiary Criteria

When evaluating evidence submitted under 8 C.F.R. 204.5(h)(3), the first step of review is limited to determining if the evidence in the record meets the plain language of the regulatory criteria. In doing so, we consider the quality and caliber of the evidence to determine if a particular criterion has been met, to the extent the criterion has qualitative elements. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Whilst some criteria do not have such qualitative elements, we are nevertheless bound by the plain language of the regulations in evaluating whether the evidence before us meets all requirements.

> *Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).*

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." For USCIS to properly consider the evidence under this criterion, a petition may include information about the criteria used to grant the award, the national or international significance of the award in the field, the number of awardees, and the limitations on competitors. *See generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1)(criterion one).

The Petitioner submitted diplomas, certificates, and letters of acknowledgment, as evidence in support of his claim of receipt of lesser nationally or internationally recognized prices or awards for excellence. But the submitted diplomas, certificates, and letters of acknowledgment, were not awarded to the Petitioner but to [redacted] The record reflects [redacted] is a dance troupe composed of well-regarded students at the [redacted] from where the Petitioner claims to have matriculated. So, the diplomas, certificates, and letters of acknowledgment, awarded to [redacted] are not awards granted to the Petitioner.

In response to the RFE, the Petitioner emphasized his receipt of a "first place diploma (gold medal) in…'Folk Dance,'" an "honorary title of 'candidate of master of sport,'" his purported participation in ceremonies opening the 2014 Winter Olympics in [redacted] Russia, and the "All-Russian Festival of Folk Art" to claim eligibility under 8 C.F.R. § 204.5(h)(3)(i). But the "first place diploma (gold medal) in…'Folk Dance,'" was awarded to [redacted] not the Petitioner, so it is not evident that it was conferred upon the Petitioner. Moreover, the leader of [redacted] identified on the diploma is not the Petitioner, but a different individual. Other diplomas, certificates, and letters of acknowledgment also named other individuals that were not the Petitioner. Those, also, do not demonstrate that the named awards or recognition were bestowed upon the Petitioner.

And the Petitioner's claim to the "honorary title of 'candidate of master of sport,'" is also insufficient to demonstrate his receipt of an award in his field. In the first instance, it is not sufficiently clear from the record what the designation of "candidate" or candidature for the title of "master of sport" means. Or in other words, it is not evident from the record if candidature for the master of sport title means the title has been bestowed or if the Petitioner is under consideration for the title. Moreover, the record reflects the title of "master of sport" was established by the former Union of Soviet Socialist Republics (USSR). The USSR was dissolved in 1991, seven years before the Petitioner was born. The record does not state the title of "master of sport" survived the dissolution of the USSR and if it did, what its current form is. Consequently, we cannot determine if the title is a current award or prize for excellence, or what its posture was post dissolution of the USSR when it was purportedly granted to the Petitioner.[3] Moreover, setting aside our above observations about the "master of sport" title, the evidence does not demonstrate the title is a recognized prizes or awards for excellence in the field of endeavor.

Finally, the Petitioner's participation in ceremonies connected or adjacent to the 2014 Sochi Winter Olympics, in the 2018 Taichung International Dancing Festival, the Delphic Games (regional and national), and the All-Russian Festival of Folk Art are not prizes or awards.

So, for all the foregoing reasons, we conclude the Petitioner has not met this criterion and withdraw SCOPS' conclusion to the contrary.

> *Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).*

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." The Petitioner provided evidence of his membership with Dance USA, the

[3] The Petitioner also advanced the proposition that the "honorary title of 'candidate of sport'" demonstrated his membership in associations in the field for which classification is sought requiring outstanding achievement of their members as judged by recognized national or international experts. Our concerns about the title's sufficiency for eligibility under 8 C.F.R. § 204.5(h)(3)(i) apply in equal force to consideration of the title under 8 C.F.R. § 204.5(h)(3)(ii).

National Dance Education Organization, the Russian Dance Union, the Dance Sport Federation of Russia, World Dance Sport Federation, FTSARR – the Russian Olympic Committee, and LinkedIn.

In its decision SCOPS concluded the Petitioner did not meet this criterion and we agree. The record does not demonstrate that any of the Petitioner's memberships require outstanding achievements of their members. The Petitioner submitted a copy of a "personal snapshot" and a webpage describing the "Vision and Mission" of Dance USA. But the evidence did not demonstrate that membership in Dance USA required outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The Petitioner's evidence of membership in the National Dance Education Organization is also supported by a membership profile page and a membership benefits handbook. The Petitioner's membership profile identifies the Petitioner's membership level as professional. And the members benefits handbook states professional members "actively [work or teach] in dance or dance education, dance educators, dancers and choreographers, dance specialists in medicine/science and technology, arts educators, and administrators." But the member handbook does not indicate if professional members require outstanding achievements as judged by recognized national or international experts in their disciplines or fields.

And the Petitioner's evidence of membership in the World Dance Sport Federation in the form of webpages did not show that membership in the World Dance Sport Federation required outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The Petitioner provided a copy of his athlete classification book to document his membership in the Russian Dance Sport Union and the Dance Sport Federation of Russia. He also provided additional background information about the Russian Dance Sport Union and its articles of association with applicable translations. He did not provide additional documentation about the Dance Sport Federation of Russia.

In the first instance, the evidence in the record does not establish the Petitioner's membership in the Russian Dance Sport Union or the Dance Sport Federation of Russia. The Petitioner submitted athlete classification books for the two organizations. With respect to the Russian Dance Sport Union, this is deficient because the athlete classification book is not a membership card as described in the Russian Dance Sport Union's articles of association. But, even if the athlete classification book did reflect the Petitioner's membership in the Russian Dance Sport Union, we would still conclude membership in the organization does not demonstrate the Petitioner's eligibility under the criterion. Admittance to membership in Russian Dance Sport Union is open to any national of the Russian Federation, foreign national, or stateless person over the age of 18 who recognizes the provisions of the organizations' articles of association and pays entrance and membership fees. Outstanding masters who have worked in the field of ballroom choreography for 15 years or more and have state awards of the Russian Federation may become honorary members of the Russian Dance Sport Union. But the record does not demonstrate the Russian Dance Sport Union admitted the Petitioner as a member, let alone as an honorary member. And there is no evidence to describe the Dance Sport Federation of Russia and any criteria for membership that would support if membership requires outstanding achievements as judged by recognized national or international experts in their disciplines or fields.

The Petitioner's response to the RFE only asserted his eligibility under this criterion based on a claimed membership in FTSARR – the Russian Olympic Committee. But the evidence in the initial petition did not describe the Petitioner's membership. And the Petitioner's claim in the RFE was not supported by any evidence. Finally, the Petitioner's LinkedIn account is not an association in the Petitioner's field for which classification is sought which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

So, we conclude the Petitioner has not demonstrated eligibility under this criterion.

> *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).*

To fulfill this criterion, the Petitioner must demonstrate there is published material about him in professional or major trade publications or other major media, as well as the title, date, and author of the material. The published material should be about the alien and his or her work, rather than the alien's employer and its work (or about an organization and its work). Professional or major trade publications may be identified by their intended audience, whereas other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1)(criterion three).

The initial petition contained a list of interviews conducted with the Petitioner on a Russian language YouTube channel TOP TV "First News" in 2013, 2014, and 2016. The Petitioner also indicated that an article in the "Annual Directory of the FTSRR in the Central Federal District" in 2011 and a list of his 2015 to 2017 competition results on a Russian website for ballroom competitions supported his eligibility under this criterion. The record contained screenshots from videos on the YouTube channel. The record also contained documentation describing Channel One in Russia and an information program aired on it called News.

But the evidence does not demonstrate that the published video coverage the Petitioner presented was about him and related to his work in his field. The record does not, for example, contain transcripts of the video coverage that we could evaluate. And whilst the Petitioner's list stated the videos aired on a YouTube channel called TOP TV in a program called First News, the Petitioner provided information about the Russian television Channel One and its News program. So, we are unable to evaluate if YouTube channel TOP TV and First News are other major media. Even if a YouTube channel called TOP TV and First News were referring to Channel One and News, we would still conclude that we are unable to determine if it is major media because the evidence does not describe relevant factors describing the intended audience or viewership for Channel One and News.

In response to the RFE, the Petitioner submitted several articles about his dance troupe [redacted] with which he was the lead dancer or leader, and its purported participation in the 2014 Winter Olympics in Sochi, Delphic Games in 2015, and the All-Russian Festival of Folk Art "Together we are Russia" event in [redacted] He also submitted several articles about the "Taichung International Festival" which he also participated in. The Petitioner asserted that publications about his dance

troupes or festivals that he participated in should be considered to be about him because "as a member of an ensemble, when the ensemble achieves recognition, this intrinsically reflects upon its members."

But fulfillment of this criterion by the Petitioner requires him to demonstrate that the published material about his dance troupe and its work contains a substantial discussion of the individual's work or mentions the individual in relation to the work. The evidence in the record is about his dance troupe and its work and does not contain a substantial discussion about the Petitioner's work or mention him in relation to the work. *Id.* So, we conclude it cannot support his claim of eligibility under this criterion.

> *Evidence 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).*

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 his or her 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 v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013). Relevant evidence 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.
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

*See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1)(criterion five).

The Petitioner claimed that he made innovative contributions to his field. He stated that he "developed a groundbreaking Sport Dancing and Physical Education program for children and individuals with disabilities, emphasizing arm styling for beginner and competitive dancers" as well as a "unique teaching methodology for athletes with physical disabilities" adopted by the All-Russian Federation of Dance Sports and Acrobatic Rock-roll [that] serves as the core training technique for the national Paralympic wheelchair dance team." In support of his claim, the record contains a certificate from the All-Russian Federation of Dance Sports and 17 testimonial letters or advisory opinions from individuals in the field.

Testimonial letters and letters of support can support a petitioner's claim of original contributions of major significance with details about how the petitioner's original work has been significant in his or her field. But the contents of the testimonial letters or advisory opinions in the record do not preponderantly demonstrate that the Petitioner's original contributions are of major significance. Several letters submitted by the Petitioner make a passing reference to the Petitioner's work with athletes, children, and individuals with disabilities. And a certificate provided by the Petitioner indicates that his teaching methodology has been utilized by the All-Russian Federation of Dance

Sports and Acrobatic Rock-roll. But the letters that mention these contributions as identified by the Petitioner do not provide details that could demonstrate the significance of the contributions. For example, the letters do not discuss how the adoption of the Petitioner's techniques, arm-styling, or methodology has been received in his field. The letters do not explain how the adoption of the Petitioner's work in the field with respect to its use in training for the Russian paralympic wheelchair dance team demonstrates its level of significance to his field. The record does not contain other objective evidence or material that could further illuminate the significance of his claimed contributions to his field.

In general, the testimonial letters or advisory opinion mainly express an effusive appreciation of the Petitioner's competent undertaking of his job duties or dance performances. Some letters also speak highly of the dance troupes and organizations that the Petitioner has provided his services to. But the testimonial letters or advisory opinions do not establish how the Petitioner's entertaining dance performances, even if at festivals of some note, are original contributions to his field and the significance of the contributions separate and apart from the venue where they were performed or made. So, we conclude the Petitioner has not demonstrated eligibility for the claimed criterion.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi).*

The record does not preponderantly establish that the scholarly articles the Petitioner claims to have authored were published in professional or major trade publications or other major media. The articles contained in the record were published in journals named Science Almanac and Trends in Development of Science and Education. The Petitioner's response to the RFE contained certificates from the publishers of the journals attesting to their acceptance and publication of peer-reviewed articles. The record also contains printouts from webpages describing total website page visits and views for each journal. However, the certificates and printouts do not constitute persuasive evidence to establish the publications are professional or major trade publications or other major media because they do not provide a context such as rankings, circulations figures, or any other metric to demonstrate how the journals publishing the articles compare against others. The omission of the comparative context prohibits an evaluation of the nature of the journal and if it is a professional or major trade publication or other major media. So, we conclude the Petitioner has not met this criterion and withdraw SCOPS' conclusion to the contrary.

> *Evidence 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).*

To qualify under this criterion, a petitioner must show that he or she played a leading or critical role for an organization or establishment, and that the organization or establishment has a distinguished reputation. When evaluating whether a role is leading, we look at whether the evidence establishes that the person is or was a leader within the organization, or a department or division thereof. A title, with appropriate matching duties, can help to establish that a role is or was leading. For a critical role, we look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a

division or department of the organization or establishment. 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1)(criterion eight).

To support that an organization has a distinguished reputation, the relative size or longevity of an organization is considered together with other relevant information, such as the scale of its customer base or relevant media coverage. "Merriam-Webster's online dictionary defines 'distinguished' as 'marked by eminence, distinction, or excellence' or 'befitting an eminent person.'" *Id.*

The Petitioner claimed his role as a "professional dancer, head teacher and coach" with [redacted] and the "Ballroom dance studio [redacted]" are evidence of his leading and critical role in organizations or establishments with distinguished reputations. He also claimed eligibility stemming from his role as a "professional lead dancer" at [redacted] both theme parks in Taiwan. And the Petitioner submitted documentation supporting his role as "professional lead dancer and teacher, and "professional multidisciplinary dancer/dance teacher" at dance club [redacted] and at several [redacted] franchise locations in the United States. In response to the RFE, the Petitioner re-emphasized the above claims of eligibility and also added his role in "the development of educational and creative activities at the [redacted]

But the evidence consisted only of identification of his job title with the entities he claimed had distinguished reputation. The Petitioner did not adequately identify where his individual role fit in within the organizational structure or hierarchy of the individual entities such that we could identify if that role was leading or critical in the first place. And the leading or critical nature of the Petitioner's role is not supported by the pictures he submitted into the record because the pictures do not sufficiently demonstrate that he was a leader within the organization, or a department of division thereof, or that he contributed to the entities in a manner that is of significant importance to the outcome of the entities' activities. Additionally, the record did not provide sufficiently material, relevant, or probative evidence to describe the reputation of the organizations or establishments the Petitioner identified other than uncorroborated claims in recommendation letters. And the evidence in the record did not preponderantly demonstrate the organizational complexity of the entities identified by the Petitioner so that we could examine if they were "organizations or establishments" as required by the criteria. So, we conclude the Petitioner did not meet this criterion and withdraw SCOPS' conclusion to the contrary.

B. Final Merits Determination

The Petitioner did not meet the evidentiary standard and the requirements of section 203(b)(1)(A)(ii), (iii) of the Act. So, we are not required to make a final merits determination. But, as the Petitioner has appealed SCOPS' final merits determination, we will review the record and decide that even if the Petitioner had established that he met the evidentiary standard and the requirements of section 203(b)(1)(A)(ii), (iii) of the Act, we would nonetheless conclude the Petitioner did not demonstrate he has extraordinary ability in his field of endeavor upon conducting a de novo final merits determination.

As SCOPS concluded the Petitioner submitted the requisite initial evidence as described above, we are left to evaluate whether he has demonstrated, In a final merits determination, we analyze a

petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to by a preponderance of the evidence demonstrate that he has extraordinary ability in the field of endeavor through sustained national or international acclaim, that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010).

On appeal, the Petitioner contends SCOPS "overlooked evidence, misunderstood law and did not consider the petition in its entirety when conducting a final merits analysis." The Petitioner reiterates on appeal that the evidence he has submitted in the record is "in the aggregate [ ] sufficient to demonstrate [his] sustained national acclaim as a professional dancer and choreographer [and] that his achievements have bene recognized in the his field of expertise, and that he is among the small percentage who have risen to the very top of his field of endeavor."

The Petitioner claims that he developed an interest in the field of dance since he was six years old and has progressively advanced in the field. After matriculating from high school and completing mandatory state examinations, he was admitted to [redacted] in the [redacted] region of Russia and pursued dancing education in a post-secondary environment. During his post-secondary education, the Petitioner states he took advantage of the opportunities presented by his selection as a dancer in [redacted]' dance troupe [redacted]' and the ballroom dance club [redacted] Following completion of his post-secondary education, the Petitioner took up employment with the ballroom dance club [redacted] to teach "kids the basis of ballroom dancing" and met his now spouse. Together, the Petitioner and his spouse entered into contractual relationships with two Taiwan based theme parks over a period of some years to perform dances at what he describes as "the Chinese version of [redacted]" Since 2021, the Petitioner has been based in various cities in the United States teaching dancing at [redacted]

The record as a whole does not demonstrate that his achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The Petitioner submitted diplomas, certificates, and letters of acknowledgment as evidence in support of his claim of receipt of lesser nationally or internationally recognized prices or awards for excellence. The majority of the submitted diplomas, certificates, and letters of acknowledgments were not awarded to the Petitioner but to [redacted] The record reflects [redacted] is a dance troupe composed of well-regarded students at the [redacted] from where the Petitioner claims to have matriculated. In response to the RFE, the Petitioner emphasized his receipt of a "first place diploma (gold medal) in…'Folk Dance,'" an "honorary title of 'candidate of master of sport,'" and his purported participation in ceremonies taking place during the 2014 Winter Olympics in Sochi, Russia to claim eligibility under 8 C.F.R. § 204.5(h)(3)(i). But the record does not support that receipt of a "first place diploma (gold medal) in…'Folk Dance,'" awarded to [redacted] and not the Petitioner[4] when he was a dancer in the troupe reflects national or international acclaim for the Petitioner's ascension to the small percentage of individuals who have risen to the very top of the field of endeavor.

[4] We note the diplomas, certificates, and letters of acknowledgment contained in the record identify individuals other than the Petitioner as the leader of [redacted]

And the "honorary title of 'candidate of master of sport,'" the Petitioner claims is also insufficient to demonstrate his sustained national or international acclaim in his field such that he is amongst those of the small percentage to have reached the top of his field.[5] It is not sufficiently clear from the record that the designation of candidate or candidature for the title of master of sport is bestowed in recognition of sustained national or international acclaim or to those amongst the small percentage to have reached the top of a field of endeavor. Finally, the Petitioner's participation in ceremonies connected or adjacent to the 2014 Sochi Winter Olympics, in the 2018 Taichung International Dancing Festival, the Delphic Games (regional and national), and the All-Russian Festival of Folk Art is not supported by material, relevant, or probative evidence in the record of proceeding indicative of acclaim or recognition in the field.

The Petitioner provided evidence of his membership with Dance USA, the National Dance Education Association, the Russian Dance Union, the Dance Sport Federation of Russia, World Dance Sport Federation, and LinkedIn. But the record does not contain evidence that sustained national or international acclaim or a career of acclaimed work is demonstrated by entry into the memberships. *See Donskoy v. United States Citizenship & Immigr. Servs.*, No. 21-CV-04757-CRB, 2021 WL 5240224, at *5 (N.D. Cal. Nov. 11, 2021) (upholding the petitioner's membership did not demonstrate the requisite level of achievement or sustained acclaim to establish extraordinary ability).

Moreover, the Petitioner did not demonstrate how his membership reflected that he was amongst the small percentage who has risen to the very top of the field of endeavor. For example, the Petitioner did not explain how the various membership placed him among the upper echelon of his field. The record does not contain evidence indicating that he received national or international recognition based on his memberships. In addition, the Petitioner did not establish that he has distinguished himself from others in the field based on his memberships, gaining national or international attention or placing him among the upper echelon in his field.

Regarding the Petitioner's service as a judge of the work of others, an evaluation of the significance of his 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.[6] The Petitioner participated as a jury member and examiner at the [redacted] However, the Petitioner did not establish that this one opportunity for judging the dancing of children learning dance skills contributed to a finding that he has a career of acclaimed work in the field or indicative of the required sustained national or international acclaim.

The Petitioner did not show, for example, how his judging experience compares to others at the very top of the field. In addition, the Petitioner did not establish, for instance, that he garnered wide

[5] We note that the record does not clarify if candidature for the master of sport title means the title has been bestowed or if the Petitioner is under consideration for the title. Moreover, the record reflects the title of "master of sport" was established by the former Union of Soviet Socialist Republics (USSR). The USSR was dissolved in 1991, seven years before the Petitioner was born. The record does not state the title of "master of sport" survived the dissolution of the USSR and if it did, what its current form is.

[6] *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).

attention from the field based on his student examination committee work. Moreover, serving as a jury member and examiner judging the dancing of children learning dance skills does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of his field. Without evidence that sets the Petitioner apart from others in his field, such as evidence that he has a consistent history of reviewing or judging recognized, acclaimed experts in his field rather than students or aspiring dancers, the Petitioner has not shown that his narrow judging experience places him among that small percentage who has risen to the very top of the field of endeavor. *See Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801, at *2 (finding the petitioner did not show that he served as a judge of renowned directors as opposed to aspiring artists or the competitions were considered prestigious or attracted significant attention by the field).

Likewise, authorship and publication do not automatically place one at the top of the field.[7] The record reflects the Petitioner presented evidence showing that he published three articles. But, the Petitioner did not show the significance of his authorships or how his publication record compares to others who are viewed to be at the very top of the field. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (S.D.N.Y. Jan. 5, 2024) (finding it reasonable for USCIS to focus on the fact that a publication record of six publications over seven years inconsistent with a career of acclaimed work and sustained national or international acclaim). And the Petitioner provided no citation history or other evidence of the influence of his written work so that we could evaluate the impact and recognition that his publications have had on the field and whether such influence has been sustained. *See Bhanu v. Garland*, No. 22-103, 2023 WL 6119357, at *9 (E.D. Pa. Sept. 18, 2023) (upholding the Petitioner did not show the significance of authorships reflecting that he is among the small percentage at the very top of the field).

The Petitioner provided recommendation letters, including letters from local governmental representatives, generally praising him and his work. But the letters do not contain sufficient information and explanation to show the Petitioner made original contributions of major significance such that the Petitioner is viewed by the overall field, rather than by a solicited few, among the upper echelon or that he has garnered recognition on a national or international scale, consistent with being among the small percentage at the very top of the field of endeavor. *Mishra v. Richardson*, No. 120CV991LMBTCB, 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding the plaintiff submitted letters only from people within his circle of professional acquaintances, and none of the letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim). Although the letters highlight the Petitioner's talents and responsibilities, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (finding the plaintiff's work for organizations did not result in national or international acclaim). Moreover, the Petitioner did not establish that his roles received widespread acclaim from the field, drew significant attention from the greater field, or the overall field views him among the leading dancers in the field. *See Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4, *aff'd sub nom. Hamal v.*

[7] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that the second step requires USCIS to evaluate the person's publications to determine whether it is indicative of being one of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

*United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (upholding plaintiff did not contextualize his work at an organization demonstrating recognition by the field as being significantly important or viewed as unusually influential). Furthermore, the Petitioner did not show that he attracted a level of attention from his employment that places him among that small percentage at the very top of the field or enjoys a career of acclaimed work.

Relating to the artistic display of his work, the Petitioner claims that he has performed dance at various festivals, showcases, competitions, and exhibitions. As it is expected that a dancer, such as the Petitioner, would exhibit his artistic work in front of audiences, we will evaluate the extent to which the display of his work is reflective of acclaim consistent with this classification. Whilst the Petitioner presented evidence showing a wide range of experience he did not demonstrate, for example, that his specific work brought wide praise from critics, drew notable crowds, raised attendance, or was responsible for the success or standing of the events. The Petitioner's evidence does not distinguish his performances or work from others in his field or show that it reflects a "career of acclaimed work in the field." H.R. Rep. No. 101-723 at 59.

The Petitioner claimed his role as a "professional dancer, head teacher and coach" with [redacted]" and the "Ballroom dance studio [redacted]" are evidence of his leading and critical role in organizations or establishments with distinguished reputations. He also claimed eligibility stemming from his role as a "professional lead dancer" at [redacted] both theme parks in Taiwan. And the Petitioner submitted documentation supporting his role as "professional lead dancer and teacher, and "professional multidisciplinary dancer/dance teacher" at dance club [redacted] and at several [redacted] franchise locations in the United States.

In response to the RFE, the Petitioner re-emphasized the above claims of eligibility and also added his role in "the development of educational and creative activities at the [redacted] But, the evidence consisted only of identification of his job title with the entities he claimed had distinguished reputation. The Petitioner did not adequately identify where his individual role fit in within the organizational structure or hierarchy of the individual entities such that we could identify if that role demonstrated any sustained acclaim in his field.

And the Petitioner's acclaim in his field is not captured by the pictures he submitted into the record because the pictures do not sufficiently establish his stature as an individual amongst the very few at the top of his field. Additionally, the record did not provide sufficiently material, relevant, or probative evidence to describe the reputation of the organizations or establishments the Petitioner identified other than uncorroborated claims in recommendation letters. And the evidence in the record did not preponderantly demonstrate the organizational complexity of the entities identified by the Petitioner so that we could examine if they were "organizations or establishments" as required by the criteria. So, it is not evident that the Petitioner's possession of the job titles he had with the organizations or establishments he identified elevated him to an echelon reflecting widespread acclaim in his field. The submitted documentation, for instance, does not reflect that the Petitioner has somehow impacted the field through his work demonstrating attention at a level commensurate with those at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). In addition, the Petitioner's

evidence does not distinguish his performances or work from others in his field or show that it reflects a "career of acclaimed work in the field." H.R. Rep. No. 101-723 at 59.

The record, 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. USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *Matter of Price*, 20 I&N Dec. at 954. Whilst the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, we find the record insufficient to demonstrate that he has sustained national or international acclaim and is among the small percentage at the top of his field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).[8]

C. O-1 Nonimmigrant Status

We note that the record reflects that the Petitioner received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved two O-1 nonimmigrant visa petitions filed on behalf of the Petitioner, the prior approvals do not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard – statute, regulations, and case law. Many Form I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990). Furthermore, our authority over the USCIS service centers is comparable to the relationship between a court of appeals and a district court. Even if SCOPS has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another nonimmigrant or immigrant visa petition. *Louisiana Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

## III. CONCLUSION

For the reasons discussed above, the Petitioner has not established his eligibility as an individual of extraordinary ability.

**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 removal from the United States and possible ineligibility for future visas or other immigration benefits.

[8] As the Petitioner has not demonstrated his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not consider whether he intends to continue working in the area of extraordinary ability under section 203(b)(1)(A)(ii).