U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40669786

Date: FEB. 27, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a site reliability engineer, seeks classification as an alien of extraordinary ability. *See* section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id.*

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner was not the recipient of a major, internationally recognized award, and, did not satisfy at least three of the ten evidentiary criteria to meet the initial evidentiary requirements of the classification. 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 immigrant visas available to aliens with extraordinary ability if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry will substantially benefit the United States prospectively. The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis of the evidence to determine whether a petitioner has sustained national or international acclaim and whether their achievements have been recognized in the field. First, a petitioner can provide evidence of either "a

major, international recognized award," or satisfaction of at least three of ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3).

Where a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) then considers the totality of the material provided in a final merits determination and assesses whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010) (discussing a two-step review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also 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); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual (providing, as guidance, USCIS' two-step extraordinary ability analysis).

II. ANALYSIS

The Petitioner has not indicated or established that he has received a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3). He must therefore satisfy at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Based on our de novo review, the Petitioner has not met this showing.

A. Evidentiary Criteria Waived

The Petitioner did not assert in the record below or on appeal that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (vi), (vii), or (x) regarding receipt of lesser nationally or internationally recognized prizes or awards, authorship of scholarly articles, display of his work at artistic exhibitions or showcases, and commercial success in the performing arts. We therefore deem the Petitioner's eligibility under these four criteria waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012))(An eligibility ground that is not raised on appeal is waived.)

B. Evidentiary Criteria Withdrawn

SCOPS determined the Petitioner met the criterion at 8 C.F.R. § 204.5(h)(3)(iv), which requires evidence of his 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. In support of this criterion, the Petitioner provided documentation that he served as a judge for the [redacted], a competition where high school students develop solutions to problems in aerospace and aviation, cyber-technology and security, energy and environment, health and nutrition, and water challenges. According to the supporting documents, the judges consisted of those in "industry, government, research and academia" and his role was to spend two hours reviewing, scoring, and providing coaching comments for each of the five teams he was assigned. The Petitioner, however, did not explain how his role judging high school students' submissions in a wide breadth of industries would amount to judging the work of others in the field. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1) (providing, as guidance, examples of "judging the work of others" to include *peer* review and serving on a doctoral dissertation committee)(emphasis added).

SCOPS also determined the Petitioner met the criterion at 8 C.F.R. § 204.5(h)(3)(viii), which requires evidence of performing in a leading or critical role for organizations or establishments, or a division or department thereof, that have a distinguished reputation. The Petitioner asserted that he served in a leading and critical role as the director of Site Reliability Engineering (SRE) at [redacted]. For a leading role, we look at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). In support, the Petitioner included recommendation letters and a chart of his team members. According to a letter dated April 2025, by a senior vice president at [redacted], the Petitioner leads a team of 35 engineers and manages an operating budget exceeding five million dollars. However, neither the senior vice president nor the authors of the Petitioner's other recommendation letters, who discuss the Petitioner leading his team and initiatives, demonstrate the Petitioner's role at [redacted], or a division or department within [redacted], is leading. While we acknowledge the Petitioner's team chart, it does not demonstrate where his team is in the overall organizational structure to corroborate that his role as a director of SRE at [redacted] is a leading one.

In addition, the Petitioner has not established that his role is critical. 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. While the Petitioner's recommendation letters describe his successes, such as onboarding over 150 new enterprise customers, and implementing initiatives that saved the company $1.7 million, the evidence does not place these successes in context to demonstrate how they were of significant importance to the outcome of [redacted] or any particular division or department therein.[1]

For these reasons the Petitioner has not established that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (viii) and we withdraw SCOPS determination to the contrary.

C. Remaining Evidentiary Criteria

1. Criteria Not Established

SCOPS determined the Petitioner did not establish the criterion at 8 C.F.R. § 204.5(h)(3)(ii), which requires he provide documentation of his 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. In his initial filing, the Petitioner claimed that his membership in the International Association of Engineers (IAENG) met this criterion, but in response to SCOPS request for evidence, he did not pursue this argument, rather he claimed membership in a different organization, Sigma XI, the Scientific Research Honor Society. However, he does not state when he became a member of Sigma XI and his supporting documents evidencing his membership do not clarify when he became a member. The Petitioner filed his petition in April 2025. It is his burden to establish that this membership in Sigma XI was in existence at the time of filing, which he has not done. *See* 8 C.F.R. § 103.2(b)(1) (An applicant or petitioner must

[1] We would also note that while the distinguished nature of [redacted] is not in question, if the Petitioner were to establish that he held a leading or critical role for a department or division of [redacted], he would need to establish the distinguished nature of that particular department or division.

establish that he or she remains eligible for the benefit sought from the time of filing and continuing through adjudication.)

Further, we agree with SCOPS' determination that the Petitioner has not established that either of these associations require outstanding achievements of its members, and that membership eligibility is judged by recognized national or international experts in their field. The Petitioner submitted a January 2025 letter evidencing he is a member of IAENG. With respect to membership requirements, the Petitioner provided printouts from IAENG's website, which state "IAENG welcome all the engineering professions to join us" and, to the extent there are additional requirements for membership, the Petitioner did not provide such information. As a result, the Petitioner did not establish IAENG requires outstanding achievement of its members as judged by recognized national and international experts in his field.

The Petitioner also submitted a certificate indicating that he is an "associate member" of Sigma XI and its bylaws defines an associate member as:

> *Any individual who has* through initial research achievement in a field of pure or applied science *shown aptitude for research* which is expected in due course to lead to the fulfillment of the requirements for full membership and *any individual who is a* bench scientist or *technician who "does" the research* but may never be recognized as an author or cannot be an author but *holds full time job in science research*, is eligible for election to associate membership in the Society.

(emphasis added). The bylaws further state, "any individual who has shown noteworthy achievement as an original investigator in a field of pure or applied science is eligible for election or promotion to full membership in the Society." On appeal, the Petitioner argues that he has demonstrated that membership in Sigma XI requires noteworthy original investigation or significant research aptitude. However, he has not demonstrated he is a member of Sigma XI, but rather an associate member, which only required him to show, in relevant part, an aptitude for research or to hold a job in research. Further, even if he had demonstrated he was a member, he does not explain how requiring "noteworthy original investigation or significant research aptitude" amounts to requiring outstanding achievements of its members. Moreover, he also argues on appeal that election for membership requires nomination, independent evaluation by scientific peers, and documented evidence of achievement. Here again, however, it is important to note that the Petitioner has not demonstrated he is a member or that he went through this nomination process. Even if he had, he also has not submitted any documentation evidencing that membership eligibility in Sigma XI is judged by recognized national or international experts in the field. The Petitioner has therefore not established this criterion.

SCOPS found the Petitioner had not established the criterion at 8 C.F.R. § 204.5(h)(3)(v), which requires evidence of his original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. SCOPS did not analyze whether the Petitioner's contributions were original. Rather, it determined that the Petitioner had not demonstrated his contributions were of major significance in the field and we agree. In addition, the Petitioner has not identified in his personal statement what his original contributions are or any impact to the field. His recommendation letters are from his co-workers and describe him, for example, optimizing operational processes, implementing initiatives, deploying new technology, re-designing infrastructure, spearheading design

and rollout of solutions, but they provide little additional detail and do not explain how these tasks demonstrate the originality of his work. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1) (providing, as guidance, submitted letters should specifically describe the person's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise). The Petitioner has therefore not met his burden to establish he has made original contributions to the field. Nor has he demonstrated that his contributions have been of major significance in the field. On appeal, the Petitioner reasserts that he implemented initiatives that saved [redacted] $1.7 million annually and argues for the first time that his frameworks have been adopted by other teams within [redacted]. He then argues that we have recognized in the past that others' adoption and implementation of an individual's work establishes its major significance, but the authority he cites does not stand for such an assertion. Moreover, he provides on appeal an undated letter by a manager on the SRE team claiming the Petitioner's team has developed a solution that will be used by his own team. While the Petitioner may have contributed to improved processes within one division or branch within his employer, he has not demonstrated the major significance of these contributions. Further, he also has not shown that his work product, which may be considered proprietary, would be shared with the field and, if so, would be considered of major significance in the field. As a result, he has not demonstrated this criterion.

2. Issues Reserved

SCOPS determined the Petitioner did not establish he meets the criteria at 8 C.F.R. § 204.5(h)(3)(iii), requiring evidence of published material about the Petitioner in professional or major trade publications or other major media, relating to the Petitioner's work in the field for which classification is sought; and 8 C.F.R. § 204.5(h)(3)(ix), requiring evidence the Petitioner has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. As the Petitioner would still be unable to establish that he meets at least three of the ten threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude he is an alien of extraordinary ability and reserve our analysis of the remaining two criteria as well as a 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); *see also Kazarian*, 596 F.3d at 1119-20 (discussing a two-step review, where if the required number of criteria are met by the documentation, then it is considered in the context of a final merits determination).

III. CONCLUSION

The Petitioner has not demonstrated 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 their removal from the United States and possible ineligibility for future visas or other immigration benefits.