U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40305480

Date: JAN. 16, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a cybersecurity expert, 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(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

SCOPS denied the petition, concluding that the record did not establish that the Petitioner had either received a major, internationally recognized award or satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal under 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility 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 withdraw SCOPS' decision and remand the matter for entry of a new decision consistent with the following analysis.

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens with 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. A petitioner must establish that these aliens seek to enter the United States to continue work in the area of extraordinary ability, and that their entry into the United States will substantially benefit 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 international recognition of an alien's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x), including items such as awards, published material in certain media, and scholarly articles. If those standards do not readily apply to the alien's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we 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).

After earning a bachelor's degree in electronics and telecommunications engineering in India, the Petitioner entered the United States as an F-1 nonimmigrant student to study at [redacted]. After earning a master's degree in information management there in 2010, the Petitioner worked in positions of increasing responsibility for various employers in H-1B nonimmigrant status. Except for a short period at [redacted] in 2022-2023, the Petitioner has worked at [redacted] since 2014. When he filed the petition in May 2024, he stated his title at [redacted] as operational technology security leader.[1]

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

- (iii), Published material about the alien in professional or major media;
- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance;
- (vi), Authorship of scholarly articles;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services.

SCOPS concluded that the Petitioner met two of the criteria, relating to judging and remuneration. On appeal, the Petitioner contends that he meets all six claimed criteria.

Upon consideration of the record, we conclude that the Petitioner has also met his burden of proof to satisfy at least one further criterion, relating to contributions of major significance. The record indicates that the Petitioner has been involved at a high level with the development and implementation of influential and widely-used cybersecurity products involving artificial intelligence.

Because the Petitioner has met the initial evidentiary requirements, we will remand the matter for SCOPS to render the final merits determination. SCOPS should evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, that he is one of the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation. SCOPS should analyze the Petitioner's accomplishments and recognition and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor.[2]

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[1] U.S. Citizenship and Immigration Services records show that the Petitioner's employer filed a Form I-140 immigrant petition, with receipt number [redacted] in August 2016, seeking a different immigrant classification on the Petitioner's behalf. That petition was approved in September 2016, with a November 2015 priority date.

[2] *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119–20. *See also,*

For example, regarding the Petitioner's judging activities for three different awards beginning in 2022, SCOPS should consider their significance as it relates to establishing his extraordinary ability.[3] We note that individualized, unsolicited invitations to judge may have more weight and be more persuasive than public calls or mass email invitations to apply for judging positions.

And SCOPS should consider whether the Petitioner, who began his career in 2010, has sufficiently established the requisite *sustained* national or international acclaim. Similar to the Petitioner's judging activities, the earliest published material about him is from 2023. And we note that several of the articles are similar in their overall content, including two articles credited to the same author, published about a year apart.

Regarding the submitted reference letters, we acknowledge that SCOPS cited *Matter of Caron International*, 19 I&N Dec. 791 (Comm'r 1988) and *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm'r 1988) to support the proposition that U.S. Citizenship and Immigration Services (USCIS) "may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept that evidence, or may give less weight to it."[4] But *Caron* does not automatically diminish the weight of expert opinion letters. As explained in the *USCIS Policy Manual*:

> Letters of support, while not without weight, should not form the cornerstone of a successful claim for this classification. Rather, the statements made by the witnesses should be corroborated by documentary evidence in the record. The letters should explain in specific terms why the witnesses believe the beneficiary to be of the caliber of a person with extraordinary ability.

See generally 6 *USCIS Policy Manual* F.2(B)(3), https://www.uscis.gov/policy-manual. Thus, while letters cannot form the sole or principal basis of eligibility, they may provide valuable context for other information and evidence in the record. SCOPS should consider the information in letters provided by authorities in the Petitioner's field, while also considering the extent to which objective documents in the record support the claims in those letters.

The Petitioner seeks a highly restrictive visa classification intended for individuals already at the top of their respective fields. *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2002) (stating that extraordinary ability is such an elite level of accomplishment); *Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) (holding that extraordinary

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generally, 6 *USCIS Policy Manual* F.2(B) and (B)(2), https://www.uscis.gov/policy-manual (stating that USCIS officers should evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the required high level of expertise of the immigrant classification).

[3] *See e.g.*, *Joseph v. Dir. of Texas Serv. Ctr., USCIS*, No. 4:22-CV-00973-SDJ-AGD, 2024 WL 1299065, at *6 (E.D. Tex. Mar. 12, 2024), *report and recommendation adopted*, No. 4:22-CV-00973-SDJ-AGD, 2024 WL 1289452 (E.D. Tex. Mar. 26, 2024), *aff'd*, No. 24-40249, 2025 WL 458001 (5th Cir. Feb. 11, 2025) (upholding plaintiff did not demonstrate his judging experience sets him apart from others in the field or places him among the small percentage who has risen to the top of the field of endeavor). *See also*, *Agrawal v. Miller*, No. 4:24CV3143, 2025 2879217, at *23 (D. Neb. Sept. 12, 2025) (upholding that plaintiff did not show how she judged to such an extent, or at a high enough level, that her judging surpasses the majority of the field and places her in the top echelon of the field).

[4] These sentences paraphrase a passage in *Matter of Caron*. *Matter of Sea* deals specifically with academic credential evaluations.

ability visas are known as "Einstein" visas, are extremely "coveted," and are "reserved for only the most talented" aliens"); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that EB-1 visas are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, SCOPS should determine whether the Petitioner has shown that the significance of his work is indicative of the required sustained national or international acclaim or is consistent with a career of acclaimed work in the field. Section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, SCOPS should consider whether the record demonstrates that he is among the envisioned small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

ORDER: SCOPS' decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.