U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40063020

Date: JAN. 28, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a law and policy specialist, 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.

The Service Center Operations (SCOPS) denied the petition, concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that he met at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal. 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 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 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

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 individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also 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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The Petitioner is a law and policy specialist in the field of technology law and artificial intelligence (AI) ethics in Central Asia. In his statement, the Petitioner explains that he plans to continue running his business, which conducts research, surveys, and generates reports, "to provide valuable insights and assistance to the U.S. business community, state institutions, and individual scholars interest in Central Asia and China regions and sectors of New Innovation Technologies in these regions." He also states that he plans to "establish strategic partnerships and collaborations with organizations and institutions within the United States to drive interdisciplinary research initiatives."

Because the Petitioner has not indicated or established 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). SCOPS determined the Petitioner did not satisfy at least three of the initial evidentiary criteria and we agree. On appeal, the Petitioner asserts he meets the evidentiary criteria relating to awards, membership, published materials, original contributions, leading or critical role, and salary.[1]

As a premilitary matter, the Petitioner for the first time on appeal asserts eligibility for the lesser nationally or internationally recognized prizes or awards criterion. However, as the Petitioner did not claim eligibility for this criterion before SCOPS, either at the time it filed the petition or in response

[1] While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

to SCOPS' request for evidence (RFE), we will not consider this claim in our adjudication of this appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (providing that if "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial, we will not consider evidence submitted on appeal for any purpose" and that "we will adjudicate the appeal based on the record of proceedings" before SCOPS); *see also Matter of Obaigbena*, 19 I&N Dec 533 (BIA 1988). We also observe that the Petitioner submits several pieces of evidence on appeal, which originated after the time of filing. A petitioner must meet all the eligibility requirements of the petition at the time of filing. 8 C.F.R. § 103.2(b)(l), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998).

A. Memberships

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.

The Petitioner claims eligibility for this criterion based on his participation in arbitration panels and fellowships, as well as his senior membership with the Institute of Electrical and Electronics Engineers (IEEE), and life membership with the [redacted] High Court Bar Association. Regarding the arbitration panels, the Petitioner asserts that they are "field-relevant legal associations and that membership is selective, evaluative, and based on demonstrated achievement." However, the Petitioner has not established that being included on a list of arbitrators is a type of membership in an association. *See Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *4 (N.D. Tex. June 17, 2025) (upholding plaintiff did not show a group of individuals hired or invited to serve as advisors to a school is considered an association in the field of endeavor). Nevertheless, we have reviewed the documentation about the various arbitration panels and observe that they do not show that any of these panels require outstanding achievements from their members, as judged by recognized national or international experts in their disciplines or fields. For instance, to be considered for the World Intellectual Property Organization (WIPO) List of Neutrals, the WIPO Center Neutrals Committee considers the following: legal or technical qualifications, professional experience, professional experience in dispute resolution, publications, and professional memberships. Moreover, the Russian Arbitration Center only requires its arbitrators to be lawyers, and the Brunei Darussalam Arbitration Centre requires its applicants to demonstrate "an appropriate level of expertise and experience in arbitration and be a good standing [] character." While the Petitioner contends on appeal that these "institutions appoint members based on demonstratable subject-matter expertise, cross-border experience, and a high degree of trust in the individual's legal and ethical competence," he does not explain how these standards represent outstanding achievements. Moreover, the Petitioner claims that the "nominees are subject to scrutiny from institutional boards and selection committees comprising of international experts," but he does not show that these "institutional boards" or "selection committees" are comprised of recognized national or international experts in the field. The Petitioner submits no evidence to support these assertions.

Statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight. *See Matter of S-M-*, 22 T&N Dec. 49, 51 (BIA 1998).

The Petitioner also provided documentation about his fellowships. However, this evidence also does not establish that these fellowships require outstanding achievements of their members as judged by recognized national or international experts in his field. Notably, the Petitioner did not provide the admission requirements for all the fellowships. Also, one of them only states that candidates must be fluent in the English language under its admissions requirement. Another one states that "[a]pplicants are required to hold a Ph.D. degree in law, have at least h-1 index in Scopus abstract and citation database and have published articles in Scopus or Web of Science indexed journals." However, the Petitioner does not show that having a Ph.D. or having published one article and having it cited at least one time rises to the level of outstanding achievements. In general, requirements based upon a minimum level of education or years of experience do not show that membership is based upon outstanding achievements. *See generally 6 USCIS Policy Manual* F.2(B)(l).

As previously noted, the Petitioner also claims eligibility for this criterion based on his senior membership with the IEEE. The Petitioner provided printouts from IEEE's website. According to the website, candidates for senior membership: 1) shall be engineers, scientists, educators, technical executives, or originators in IEEE-designated fields, 2) shall have experience reflecting professional maturity, (3) shall have been in professional practice for at least ten years, and 4) shall have shown significant performance over a period of at least five of those years in professional practice. The Petitioner, however, has not demonstrated that requirements such as "experience reflecting professional maturity," or "significant performance. . . in professional practice" rise to the level of outstanding achievement in his field. Furthermore, the record does not establish that IEEE's memberships are judged by recognized national or international experts in their disciplines or fields.

The Petitioner also highlights his life membership with the [redacted] High Court Bar Association. While the Petitioner provided documentation of his membership in this association, he did not provide any evidence to establish that his membership in the [redacted] High Court Bar Association requires outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

For the reasons discussed above, the Petitioner does not establish he fulfills this criterion.

B. Published Materials

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished 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." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.* The published material should be about the alien and their 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, while 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* F.2(B)(1).

On appeal, the Petitioner asserts that he submitted numerous pieces of evidence in support of this criterion and that SCOPS applied "overly rigid standards" and "completely overlooked properly documented and probative evidence." However, upon review, we observe that several of the articles were published in 2024, which was after the filing of the petition. As previously noted, a petitioner must meet all of the eligibility requirements of the petition at the time of filing. 8 C.F.R. §§ 103.2(b)(l), (12). Therefore, we will not consider them here.

Regarding the China Global Television Network (CGTN) article from 2018, while it included the title, date, and author of the publication, the Petitioner did not demonstrate that the publication qualified as a professional or major trade publication or other major media. The Petitioner submitted printouts from CGTN's website which included background information about the publication, but he did not submit the publication's circulation data to demonstrate that it qualifies as a major media publication in the country of publication.

Given the above, the Petitioner has not established that he meets this criterion.

C. Contributions

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).

To meet this criterion, the Petitioner contends that he founded a new academic field, [redacted] ([redacted]) and he provides printouts from its [redacted] website on appeal. The Petitioner further states that his two publications, [redacted] and [redacted] "establish the conceptual and terminological framework of [redacted], satisfying the originality requirement." The Petitioner also notes that the record includes the following evidence to show the adoption and implementation of [redacted]:

- Regional finalist for the Diversity Role Model of the Year from the [redacted];
- Personal invitation from the Ministry of Justice of Uzbekistan to speak at the [redacted], along with a press release;
- Letters of endorsement from colleagues that have used [redacted] in their dissertations; and
- Research paper entitled "[redacted]," which the Petitioner co-authored.

First, USCIS determines whether the person has made original contributions in the field. *Id.* Upon review, we agree with SCOPS that the Petitioner has not sufficiently established that he is the original creator of the discipline, [redacted]. For instance, the Diversity Role Model of the Year award does not mention anything about [redacted]. The press release from the Ministry of Justice of Uzbekistan only briefly mentions that he is the founder of [redacted] but this is not corroborated anywhere else in the record. Moreover, while the Petitioner provided letters from colleagues stating that they have referenced [redacted] in their dissertations, it is only from two individuals. Notably, the Google Scholar printout in the record shows that [redacted] has not been cited once and that [redacted] is not included on the list of publications. Without more, the Petitioner has not established that his contributions are original in the field.

Moreover, even if he had established original contributions, the Petitioner does not demonstrate that his [redacted] discipline is of major significance to his field. Here, the Petitioner references 10 letters in the record and asserts that they "confirm the originality, adoption, and regional importance of" his work. However, the letters do not provide "specific information relating to the[ir] impact ... on the field as a whole." *Visinscaia*, 4 F.Supp.3d at 134; *see generally 6 USCIS Policy Manual* F.2(B)(l), Criterion 5 (requiring letters to "specifically describe ... [contributions'] significance to the field"). For instance, some of the letters discuss the Petitioner's initiatives in the fields of technology law and AI, but the letters do not explain how the Petitioner's specific initiatives have advanced the field. Also, the letter from the Former Advisor to the Prime Minister of Kyrgyzstan states that the Petitioner's "Nomadic AI Ethical Principles" and concept of "Centralized AI Policy for Central Asian Region" have garnered endorsement from numerous scholars and organizations in Central Asia, but the author does not identify who these "numerous scholars and organizations" are and therefore lacks detail to meet the Petitioner's burden of establishing how his work is of major significance to meet this criterion. Further, a few of the letters praise the Petitioner's review of others' work in the field. For example, the letter from the International Kuwait University in Kyrgyzstan states that the Petitioner's "comments and recommendations have played a crucial role in guiding our students towards further improvement and development of their research work." But these letters also do not explain how the Petitioner's specific work has advanced the field. While detailed letters from experts in the field explaining the nature and significance of the contributions may provide valuable context, here they are not accompanied by corroborating documentation and are not probative. *See generally 6 USCIS Policy Manual* F.2(B)(1).

The Petitioner also continues to highlight his white paper proposing an AI policy for Uzbekistan and submits on appeal a Certificate of Appreciation as evidence of his participation in the development of a new Civil Code of the Republic of Uzbekistan. However, the implementation of one AI policy does not show field-wide significance.

For the above reasons, the Petitioner has not demonstrated that his contributions are original and of major significance to the field.

D. Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." The role may be shown to be leading or critical for a division or department of an organization or establishment, or for the organization or establishment overall. Evidence of a leading role should show that the alien was a leader

for the claimed component, and a job title with matching duties may help to establish that a role was leading. For a critical role, evidence should show that the alien 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. In determining whether the organization or establishment, or a department or division thereof, has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *See generally 6 USCIS Policy Manual* F.2(B)(1).

The Petitioner contends he served in a critical role when he participated in the development of a new civil code under the [redacted], as well as when he was appointed on the Advisory Council on Artificial Intelligence under the [redacted]. The Petitioner references the letter from the former Director of the [redacted] to establish his critical role in the [redacted]. However, the letter does not explain how his participation "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." *Id.* For instance, the letter claims that the Petitioner "played an instrumental role in the development of the New Civil Code of Uzbekistan" and provided "valuable insights." But the letter does not provide detailed and probative information that specifically addresses how the Petitioner's role was leading or critical. Without specific, detailed information, the letter does not show the Petitioner performed in a leading or critical role.[2]

In support of his role on the Advisory Council on Artificial Intelligence under the [redacted], the Petitioner provided copies of a Certificate of Membership, a report about the first meeting, and a meeting program for the second meeting. However, none of these documents explain how the Petitioner's participation "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." *Id.* For instance, the Petitioner is not even mentioned in the first meeting report.

Moreover, the Petitioner claims eligibility for this criterion based on his role as the founder and chief executive officer of his consulting company, [redacted]. The record establishes that he has held a leading role for his consulting company, but he has not established that it has a distinguished reputation. This regulatory criterion also requires the organization or establishment, or the department or division for which the person holds or held a leading or critical role, to have a distinguished reputation. *Id.* Meriam-Webster's online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Id.* The Petitioner provided a Certificate of Incorporation, a Memorandum of Association, a screenshot of its website, publications prepared under the company, and cooperation agreements. However, the Petitioner does not explain or show how these documents garnered them a distinguished reputation. *See Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *5 (S.D.N.Y. Mar. 21, 2023) (finding self-promotional material from the organization did not establish a sufficiently high reputation).

[2] *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1) (while letters from persons with knowledge of the significance of the person's leading or critical role can be helpful, the letters should contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical).

For these reasons, the Petitioner does not show he fulfills this criterion.

E. Salary

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for "evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. Comparative wage or remuneration data that is appropriate for the alien's occupation and location should be submitted to establish that their compensation is high relative to others working in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1).

The Petitioner submitted documentation indicating that he is a "foreign highly qualified specialist," along with printouts from sites including Glassdoor.com and World Salaries for lecturers in Uzbekistan. However, the Petitioner did not offer comparable salary evidence pertaining to the "law and policy specialists." To meet this criterion, the Petitioner must show that he has received a high salary in relation to other law and policy specialists rather than lecturers. Both precedent and case law support this application of 8 C.F.R. § 204.5(h)(3)(ix). *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. US. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. III. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. III. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). Because the Petitioner did not provide sufficient evidence demonstrating the salaries of other law and policy specialists, he did not establish that he commands a high salary in relation to others in his field. Therefore, the Petitioner has not established that he meets this criterion.

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 they are 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*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

For the reasons discussed above, the Petitioner has not demonstrated 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 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.