U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43193174

Date: JUL. 01, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a lecturer and instructor, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b0(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

USCIS denied the petition, concluding that the record did not establish that the Petitioner qualifies as an alien of extraordinary ability either as the recipient of a major, internally recognized award, or that the Petitioner meets at least three of the ten initial regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

i. the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

ii. the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

iii. the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those aliens in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8

C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the alien is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a legal researcher and lecturer in the field of human rights law. He earned a bachelor's degree in international relations from [redacted] University in 2007 and a master's degree in international law from the [redacted] University in 2009. His resume indicates that he has been working as a chief legal consultant for [redacted] since 2014. He is seeking to work as a lecturer and instructor in international humanitarian law in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or demonstrated that he has received a major, internationally recognized award, he must instead satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claimed to meet six criteria: membership in associations (ii); published material about the alien (iii); judge of the work of others (iv); original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field (v); authorship of scholarly articles in the field (vi); and performed in a leading or critical role (viii). USCIS evaluated the claims the Petitioner made in the initial petition and in response to the request for evidence and concluded the Petitioner satisfied four criteria, published material, judge the work of others, authorship of scholarly articles in the field, and performed in a leading or critical role. USCIS also considered the totality of the evidence in a final merits determination and concluded the Petitioner did not establish that he is among the small percentage at the very top of his field of endeavor.

On appeal, the Petitioner claims to meet all six criteria and contends that USCIS "improperly discounted evidence," misapplied the *Kazarian* framework, and imposed a heightened standard.

B. Final Merits Determination

As the Petitioner has established that he meets the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, that he has sustained national or international acclaim and 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. In a final

merits determination, we analyze the Petitioner's accomplishments 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. *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.

As previously noted, the Petitioner contends on appeal that USCIS failed to conduct a proper final merits analysis. Nonetheless, we exercise *de novo* review of all issues of fact, law, policy, and discretion. *See Matter of Christo's, Inc.*, 26 I&N Dec. 537. This means that we look at the record anew and are not required to defer to findings made in the initial decision. Furthermore, our decision may address new issues that were not raised or resolved in the prior decision.

While we may not discuss every document in the record, we have reviewed and considered each one. Based on our de novo review, we conclude the Petitioner has not demonstrated eligibility for this highly restrictive immigrant classification for the reasons we will discuss below.

The Petitioner maintains that his record demonstrates "sustained scholarly activity, recognized authorship, professional leadership, peer review authority, and documented professional recognition." However, the record, in the aggregate, does not support the conclusion that he has shown the required acclaim and recognition, or otherwise shown that he is one of the small percentage of individuals who have risen to the very top of the field of endeavor. *See* Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2).

The Petitioner claimed eligibility for the criterion at 8 C.F.R. § 204.5(h)(3)(ii) based on his membership to the American Society of International Law (ASIL), the Ukrainian Bar Association, the International Bar Association, and the International Center for the Development of Science and Technology. In support of this claim, he submitted membership certificates, welcome emails, membership identification numbers, and invitation letters to events hosted by these organizations.

Regardless of whether the submitted evidence satisfies the regulatory criterion, the record does not demonstrate that the Petitioner's memberships resulted in sustained national or international acclaim or a career of acclaimed work. *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). For example, the Petitioner has not established how his membership in ASIL reflects that he has risen to the very top of his field. The "About ASIL" page submitted in the record indicates that membership is available to individuals interested in international law and does not demonstrate that admission is limited to those who have attained distinguished achievements in the field. Furthermore, the Petitioner's membership in three of the four organizations identified in the record began in May and June 2025, shortly before the filing of the petition. Such recent memberships do not support a finding of sustained acclaim. Additionally, the record does not contain evidence demonstrating that the Petitioner received national or international recognition as a result of his membership in any of these organizations.

The Petitioner also submitted evidence of judging activities, including his review of the work of students and legal professionals while serving as a chief legal consultant. He stated that he reviewed three publications authored between 2020 and 2021. The Petitioner further indicated that, while

serving as an assistant professor in the [redacted] department of theory and history of state and law, he participated on the admissions committee and reviewed applications from prospective law students between 2010 and 2012. However, the record does not establish that the Petitioner judged the work of legal professionals with significant expertise or standing in the field. Moreover, the evidence does not sufficiently distinguish the Petitioner from others working in the field, as it does not demonstrate a consistent history of reviewing or judging the work of others. The Petitioner also has not established that these judging activities contributed to a finding that he has achieved a career of acclaimed work in the field or that they are indicative of the required sustained national or international acclaim. Similarly, participation in the peer review process does not automatically demonstrate that an individual has sustained national or international acclaim.

With respect to the Petitioner's original contributions to the field, and in the context of a final merits determination, the Petitioner asserts that he has made contributions of major significance. Specifically, he states that he has presented at multiple prestigious legal conferences, authored a monograph entitled [redacted] developed a Latin-language for lawyer curriculum while serving as an assistant professor at the [redacted] University, and received 26 citations to his legal publications.

In support of these claims, the Petitioner submitted letters attesting to his experience and the significance of his legal research and publications. He further asserts that experts in the field have recognized his achievements as a researcher and author in the field of human rights law. Nevertheless, regardless of whether the evidence is sufficient to satisfy the regulatory criterion relating to original contributions of major significance, the record does not establish that the Petitioner's contributions are indicative of sustained national or international acclaim. While the evidence demonstrates professional activity and participation in the field, it does not show that his work has been widely recognized beyond his immediate professional circles or that it has positioned him among the small percentage of individuals who have risen to the very top of the field of endeavor.

Although the Petitioner provided support letters, the record does not contain sufficient information to establish that the Petitioner is viewed by the overall field, rather than by a solicited few, to be among the upper echelon or that he has garnered recognition on a national or international scaled, consistent with being among the small percentage at the very top of the field of endeavor. *Mishra v. Richardson*, No. 1:20-cv-991 (LMB/TCB), 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding that none of the plaintiff's letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim). Moreover, while the letters highlight the Petitioner's work, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar v. USCIS*, No. 1:19-CV-706 (MAD/CFH), 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding the submitted letters failed to establish the plaintiff's contributions resulted in significant acclaim).

With respect to the authorship of scholarly articles, the Petitioner asserts that he has authored 16 publications in legal journals and has received 26 academic citations. His publications involve topics such as legal assistance and human rights and have appeared in journals, including the [redacted] and [redacted] In support of this claim, the

Petitioner submitted his Google Scholar profile, which indicates that his most recently cited work dates from 2018.

USCIS determined that the evidence does not establish that the Petitioner's authorship has garnered national or international attention, nor does it demonstrate that his publication record is indicative of an individual at the top of the field who has sustained national or international acclaim. We agree. Regardless of whether the evidence satisfied the regulatory criterion, the record does not demonstrate that the Petitioner's publications have had a significant impact on the field or received widespread national or international recognition. *See Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *23 (D. Neb. Sept. 12, 2025) (upholding USCIS' finding that "the evidence does not demonstrate that the research reported in [the petitioner's] articles has made an impact on the field sufficient to provoke widespread commentary throughout the [field] or major press describing her or her contributions"). Additionally, the Petitioner did not demonstrate that his publications are reflective of a career of acclaimed work, sustaining national or international acclaim, or being among the small percentage at the very top of the field. For example, he has not demonstrated the significance of his authorship contributions or shown how his publication record compares to others who are viewed to be at the very top of the field. *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 to reflect that he is among the small percentage at the very top of the field).

The Petitioner further asserts that he has served in critical roles, including chief legal consultant for [redacted], councilor of the [redacted], assistant professor of theory and history of state and law for the [redacted] and [redacted] University, and head of the educational and methodological department of the [redacted] of the [redacted]. Although USCIS concluded that the Petitioner satisfied the regulatory criterion relating to leading or critical roles, USCIS also found that he had not established that these professional achievements resulted in national or international acclaim or demonstrated that he is among the small percentage at the very top of the field. We agree.

While the record demonstrates that the Petitioner has contributed to the field through various professional positions, the evidence does not establish that his duties or accomplishments rise to the level associated with a career of sustained national or international acclaim, as required for individuals of extraordinary ability. Similarly, although the record shows that the Petitioner has taught legal courses, created curriculum, and served as a judge of others' work, these activities reflected limited recognition, exposure, and influence within the legal and academic communities. As such, the evidence does not establish that he is one of the small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). Furthermore, the record does not demonstrate that the Petitioner's contributions have resulted in national or international acclaim or that the field or the public had taken notice of his work. 8 C.F.R. § 204.5(h)(3).

With respect to published materials, the Petitioner asserts that he has been featured in media outlets such as *Gazeta.ua*, *Telegraf.com*, *Focus.ua*, and *Today.ua*, where he discussed topics related to legal rights and legal assessments. Although the materials demonstrate that he has received some media attention, the coverage is limited in both scope and duration and does not establish sustained recognition over time. The Petitioner also did not establish that such reporting is consistent with a

level of success among that small percentage who has risen to the very top of the field of endeavor, has achieved sustained national or international acclaim, or has a career of acclaimed work. For example, he has not shown how his media coverage compares to others in his field who are among the very top. Furthermore, the Petitioner has not demonstrated how the published materials reflect a career of acclaimed work in the field or sustained national or international recognition in review of the totality of the evidence. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding the lack of press about the plaintiff was not consistent with national or international acclaim). Also, *see Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4 (D.D.C. June 8, 2021), *aff'd sub nom. Hamal*, *supra*) (affirming USCIS' finding that a petitioner did not show that "his press coverage is indicative of a level of success consistent with being" at his field's top).

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought.[1] Here, 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. *Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *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 ability visas are known as "Einstein" visas, are extremely "coveted," and are "reserved for only the most talented" aliens"). In this case, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or it 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, the record is insufficient to demonstrate that he is among the small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

Although the Petitioner himself and his support letters emphasized his extraordinary ability in his field, the record is insufficient to demonstrate sustained acclaim in order to qualify for an immigrant visa under this classification. The totality of the evidence does not demonstrate that the Petitioner has garnered a level of recognition for expertise in his field that would be expected from an individual at the top of his field. Accordingly, the record, as a whole, does not demonstrate eligibility for the benefit sought. The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 FR 30703-01, 30704. Here, the Petitioner has not established that he enjoys a career that meets this very high standard.

III. CONCLUSION

The Petitioner has submitted the required initial evidence that meets at least three of the ten categories of evidence listed under 8 C.F.R. § 204.5(h)(3)(i)-(x). As a result, we have provided the type of final merits determination referenced in *Kazarian*, 596 F. 3d at 1119-20. Based on our review of the record as a whole, we conclude that the record, in the aggregate, does not support a conclusion that the

[1] *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence).

Petitioner has established the acclaim and recognition required to be classified as an alien of extraordinary ability in his field.

The Petitioner seeks a highly restrictive visa classification, intended for individuals at the top of their respective fields. Here, he has not shown that his accomplishments rise to the required level of sustained national or international acclaim, or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* Section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner is one of the small percentage of individuals who have risen to the very top of the field of endeavor. *See* Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated eligibility to be classified as an alien of extraordinary ability in his field. The appeal will be dismissed for the above stated reasons.

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.