U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43118502

Date: JULY 22, 2026

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

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

The Petitioner, a life sciences and digital solutions executive, 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.

United States Citizenship and Immigration Services (USCIS) Service Center Operations (SCOPS) denied the petition concluding that although the record established that the Petitioner satisfied the initial evidentiary requirements, he did not establish in a final merits determination that he has sustained national or international acclaim and is an alien in the small percentage at the very top of his field. 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 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 the alien seeks 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.

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).

II. ANALYSIS

The Petitioner earned a bachelor's degree in technology majoring in computer science from an accredited Indian institute of higher education in 2005. He has also earned an executive master's degrees in business administration from [redacted] in 2023. He holds executive certificates in artificial intelligence in pharma and biotech from [redacted] and completed an executive leadership program at [redacted] Since 2005, the Petitioner has held technology and technology management positions at various companies including [redacted] and currently [redacted] When he filed the petition in October 2025, the Petitioner was vice president, enterprise digital solutions (data, digital & AI) at [redacted] In the United States, the Petitioner intends to continue his work in the field of strategic digital transformation and AI-driven innovation in the life sciences industry via employment such as the position he currently holds.

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 claimed to have satisfied five of these criteria, summarized below:

- (i), Receipt of lesser nationally or internationally recognizes prizes or awards for excellence;
- (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 three of the criteria, pertaining to judging; scholarly articles; and leading or critical role. SCOPS discussed the remaining claimed criteria, relating to receipt of lesser awards, published material about the alien in professional or major media, original contributions of major significance, and high remuneration for services and concluded the Petitioner did not meet them. The Petitioner asserts on appeal that he meets the criteria SCOPS concluded he had met as well as the remaining criteria SCOPS concluded he failed to meet. Because there is no dispute that the Petitioner has met three or more criteria, we need not address the remaining criteria directly. Instead, we will consider the Petitioner's role in the broader context of the final merits determination.

As such, we will evaluate whether he has demonstrated, by a preponderance of the evidence, 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. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if his or her successes are sufficient to demonstrate that he or she 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. *See generally* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policy-manual (stating that USCIS officers should then 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 for the immigrant classification). In this matter, we determine that the Petitioner has not established eligibility.

On appeal, the Petitioner cites a district court decision, *Mukherji v. Miller*, No. 4:24-CV-3170 (D. Neb. Jan. 28, 2026), in which the court objected to USCIS' reliance on *Kazarian* to justify its use of the final merits determination as the basis for denying a petition. The Petitioner contends that *Mukherji v. Miller* is a "controlling decision" and "governing legal authority" in the present case.

We disagree with the Petitioner's reliance on this non-precedent district court decision. In contrast to the precedential authority of the case law of a United States circuit court, we are not bound to follow a decision of a United States district court, even in cases arising within the same district. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). The *Mukherji* decision was issued by a district court in Nebraska. In the present case, the petition was denied at the Texas Service Center, outside the jurisdiction of the Nebraska court that decided *Mukherji*.

Moreover, while we may consider the court's reasoning when it is properly before us, unpublished opinions are not considered binding precedent. *See Suchite-Salguero v. Att'y Gen. United States*, 147 F.4th 355, 359-60 (3d Cir. 2025) ("[W]e have cautioned over and over again that non-precedential opinions carry little to no weight for future cases."); *Wang v. Holder*, 569 F.3d 531, 538 n.5 (5th Cir. 2009); *cf. Matter of K-S-*, 20 I&N Dec. at 719 (considering the reasoning of district court decisions).

The two-step adjudication process is an interpretive rule that does not violate the Administrative Procedure Act, nor is it a legislative rule. *Nagaiah v. Allen*, 784 F. Supp. 3d at 810; *Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *12 (D. Neb. Sept. 12, 2025); *Etsy, Inc. v. Jaddou*, No. 4:22CV3022, 2023 WL 3689555, at *23 (D. Neb. May 25, 2023) (citing *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 96 (2015).

The final merits determination considers the totality of the evidence in the broader context of sustained national or international acclaim as required by the statute. Issues that "are not relevant to the antecedent procedural question of whether the petitioner has provided at least three types of evidence" "might be relevant to the final merits determination of whether a petitioner is at the very top of his or her field of endeavor." *Kazarian v. USCIS*, 596 F.3d at 1121. Considerations that might impermissibly amount to "a novel evidentiary requirement" within the narrow confines of an initial criterion nevertheless "might be relevant to a final merits determination." *Id.*

The final merits determination hinges on whether the Petitioner has established sustained national or international acclaim and has reached the small percentage at the very top of the field. This determination is related to, but separate from, the antecedent question of whether the Petitioner has satisfied at least three of the initial criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). In a final merits

determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if his or her successes are sufficient to by a preponderance of the evidence demonstrate that he or she has extraordinary ability in the field of endeavor through sustained national or international acclaim, that he or she is one of the small percentage at the very top of the field of endeavor, and that his or her 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).

Upon our de novo review of the record we conclude that the Petitioner did not demonstrate eligibility for the classification because the evidence does not indicate he is one of the small percentage at the very top of his field of endeavor.

The record as a whole does not demonstrate that the Petitioner's 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 claimed an award received by his employer and that he was a member of the team that received it. But the record does not indicate that the receipt of the commendation reflects sustained acclaim in his field nationally or internationally such that we can ascertain if he has risen to the level of the small percentage of individuals at the very top of the field of endeavor. For example, it is not sufficiently manifest from the record how the award is recognized in the Petitioner's field and if such recognition reflects acclaim reflecting attainment of status amongst those at the top of their field.

As stated above, the Petitioner claims to have served as a judge of the work of others. But 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.[1] The Petitioner listed several occasions where he served in a judging capacity and so met the plain language of the criterion. However, the Petitioner did not establish that these judging opportunities contribute to a finding that he has a career of acclaimed work in the field or indicate his 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. 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, the Petitioner has not shown that his judging experience places him amongst 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. The record reflects the Petitioner presented evidence showing that he has published articles in scholarly publications. 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.

[1] *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).

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). Moreover, the documentation the Petitioner claimed was published material about himself and his work did not discuss how, for example, the listing of his name, title, photograph, and limited bio demonstrated he was selected as one amongst the small percentage of individual at the top of his field to judge the respective awards promoted in the materials. And the record does not describe how the sole article featuring quotes attributed to the Petitioner is reflective of his sustained acclaim in the field, especially when the publication appears to cater to chief information officers across industry segments (such as technology, financial services, and social media) and not in the Petitioner's own field.

The Petitioner provided letters generally praising him and his work, especially the realization of specific objectives that were well received by his superiors. 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 she 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 view him among the leading individuals 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. 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 work that places him amongst that small percentage at the very top of the field or those enjoying a career of acclaimed work.

And the submitted documentation 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 performance in his role to demonstrate that it reflects a "career of acclaimed work in the field." H.R. Rep. No. 101-723 at 59. The Petitioner claimed his role at his current and previous employers as evidence of his critical role in organizations or establishments with distinguished reputations. But the evidence in support consisted mainly of verification of his employment with the

institutions and some background information about the institution he was employed with. He also submitted several letters which described his completion of employment objectives in a complimentary manner. But the Petitioner did not adequately identify if the actual organizational units within which his role resided had a reputation of a sufficiently distinguished nature such that his service demonstrated a career of acclaimed work or other recognition demonstrating that he was amongst that small percentage at the very top of his field.

Additionally, the Petitioner's salary does not establish that he is amongst that small percentage at the very top of his field or describe that his salary recognizes a career of acclaim stemming from his work in the field. The Petitioner's assertions and evidence emphasize the factor by which his income exceeds benchmark figures he provided. But the evidence does not support that the benchmarks he provided apply to his occupation, his level, or to those individuals who have sustained acclaim such that they can be considered amongst the very top of their field of endeavor. The evidence in the record does not set forth any minimum factor by which a Petitioner could establish his sustained acclaim or ascension to a level occupied by the small percentage at the top of his field based on comparison of his salary to the benchmarks. So, the record does not convincingly establish that the Petitioner's total salary is to compensate him in recognition of his stature in his field such that it reflects that he enjoys an acclaimed career in his field or consideration amongst those of that small percentage occupying the apex of his field.

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.

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. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design"); *Hamal v. Dep't of Homeland Sec.*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"); *see also Hamal v. Dep't of Homeland Sec.*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian,* 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach).

Here, the Petitioner has not shown a degree of recognition of his work that rises to the level of sustained national or international acclaim and demonstrates 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 who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).[2]

The Petitioner has not demonstrated eligibility as an alien of extraordinary ability. We will therefore dismiss the appeal.

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.

[2] 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).