U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43121114

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, an occupational health and safety specialist, requests classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203 (b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

United States Citizenship and Immigration Services (USCIS) Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner satisfied at least three initial evidentiary criteria for this classification, he did not show as required his sustained national or international acclaim and demonstrate that he is amongst the small percentage at the very top of the field of endeavor. 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

An alien is eligible for the extraordinary ability classification if he or she has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and his or her achievements have been recognized in the field through extensive documentation; he or she seeks to enter the United States to continue work in the area of extraordinary ability; and his or her entry will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

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. First, a petitioner can demonstrate a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit

this evidence, then the petitioner must provide documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) to (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 the petitioner 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, 1119-20 (9th Cir. 2010); *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 does not claim a one-time achievement, such as a major, internationally recognized award. So, he must provide evidence of meeting at least three of the evidentiary criteria contained at 8 C.F.R. § 203.5(h)(3)(i)-(x). The Petitioner claimed eligibility for the classification based on the following criteria:

- 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 (8 C.F.R. § 204.5(h)(3)(ii);
- 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 (8 C.F.R. § 204.5(h)(3)(iv);
- evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. (8 C.F.R. § 204.5(h)(3)(v)).
- authorship of scholarly articles in the field, in professional or major trade publications or other major media (8 C.F.R. § 204.5(h)(3)(vi);
- performance in a leading or critical role for organizations or establishments that have a distinguished reputation (8 C.F.R. § 204.5(h)(3)(viii)); and
- evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." (8 C.F.R. § 204.5(h)(3)(ix)).

SCOPS issued a notice of request for evidence (RFE) to the Petitioner concluding that he met the criteria contained at 8 C.F.R. § 204.5(h)(3)(vi) and invited him to submit additional evidence to demonstrate by a preponderance of the evidence that he met the remaining criteria he claimed contained at 8 C.F.R. § 204.5(h)(3)(ii), (iv), (v), (viii), and (ix) and that he is one of that small percentage who have sustained national or international acclaim to have risen to the top of his field.

The Petitioner timely responded to the RFE. SCOPS subsequently issued its decision and concluded the Petitioner met the following criteria:

- 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 (8 C.F.R. § 204.5(h)(3)(iv);

- authorship of scholarly articles in the field, in professional or major trade publications or other major media (8 C.F.R. § 204.5(h)(3)(vi);
- performance in a leading or critical role for organizations or establishments that have a distinguished reputation (8 C.F.R. § 204.5(h)(3)(viii)); and
- evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." (8 C.F.R. § 204.5(h)(3)(ix)).

SCOPS concluded the Petitioner did not meet the criteria contained at 8 C.F.R. § 204.5(h)(3)(ii) and (v) concerning 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 and evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field respectively. And, in the final merit's determination, SCOPS determined the Petitioner did not demonstrate that he is one of that small percentage who have sustained national or international acclaim to have risen to the top of his field of endeavor.

On appeal, the Petitioner raises several concerns with SCOPS' decision.[1] We acknowledge the Petitioner's concerns and note as stated above that we conduct our review of the Petitioner's appeal de novo. Upon our de novo review, we conclude like SCOPS that the Petitioner meets the criterion contained at 8 C.F.R. § 204.5(h)(3)(iv) and (vi) concerning 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 and authorship of scholarly articles in the field, in professional or major trade publications or other major media. We further conclude like SCOPS that the Petitioner did not demonstrate eligibility under the criteria contained at 8 C.F.R. § 204.5(h)(3)(ii) and (v) concerning 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 and evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field respectively.

But, upon our de novo review, we disagree with SCOPS' conclusions that the Petitioner demonstrated eligibility under the criteria contained at 8 C.F.R. § 204.5(h)(3)(viii) and (ix) and withdraw them. And we affirm SCOPS' final merits determination. So, for the below reasons, we will dismiss the Petitioner's appeal.

[1] On appeal, the Petitioner cites to an unpublished 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 as well as several of our non-precedent decisions to assert that final merits denials are arbitrary and must be set aside. But we disagree with the Petitioner's contention. 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); *see also 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.") and *Wang v. Holder*, 569 F. 3d 531, 538 n.5 (5th Cir. 209). Moreover, our own non-precedent decisions are not published as a precedent and therefore do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c)

A. *"Documentation of the alien's 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."8 C.F.R. § 204.5(h)(3)(ii).*

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which 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."

USCIS determines if the association for which the person claims present or past membership requires that members have outstanding achievements in the field as judged by recognized experts in that field. *See generally* 6 *USCIS Policy* Manual F.2(B)(1), https://www.uscis.gov/policy-manual. The petitioner must show that membership in the association requires outstanding achievements in the field for which classification is sought, as judged by recognized national or international experts. *See generally* 6 *USCIS Policy* Manual, *supra*, at F.2(B)(1). Relevant factors that may lead to a conclusion that the person's membership in the association(s) was not based on outstanding achievements in the field include, but are not limited to, instances where the person's membership was based solely on the following factors (by themselves or in the aggregate): a level of education or years of experience in a particular field; the payment of a fee or by subscribing to an association's publications; and a requirement, compulsory or otherwise, for employment in certain occupations, as commonly seen with union membership or guild affiliation for actors. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

In the initial petition, the Petitioner claimed that certifications he held that were issued by the Occupational Safety and Health Administration (OSHA), National Examination Board in Occupational Safety and Health (NEBOSH) (UK), Sociedade Portuguesa de Seguranca e Higiene Occupacionas (SPOSHO) (Portugal), Board of Certified Safety Professionals (BSCP), Canada Safety Council (CSC), and National Association of Safety Professionals (NASP) satisfied his eligibility under the criterion. The Petitioner conceded that membership in CSC and NASP did not serve as "primary evidence" of the Petitioner's claim to eligibility under the criteria, but "provide[d] corroborative weight by demonstrating" participation, adherence, and development in his chosen profession.

In its RFE, SCOPS listed the Petitioner's certifications except for those issued by the BCSP. SCOPS noted the record did not contain evidence demonstrating that certification or admission by the certifying bodies required outstanding achievement as judged by recognized national or international experts.

In response to the RFE, the Petitioner did not provide any evidence demonstrating that certification or admission by OSHA, NEBOSH, SPOSHO, CSC, or NASP required outstanding achievement as judged by recognized national or international experts. Instead, the Petitioner focused on SCOPS apparent omission of his BCSP certifications. The Petitioner asserted that holding BCSP certifications "constitutes formal inclusion within a defined and selective professional group." He further stated that BCSP bylaws provide a process to establish minimum education, experience, and training requirements, as well as determine the qualification of applicants and verify their competency. According to the bylaws, certification reflects that "an individual has met a set of standards and

demonstrated competency by examination after completing an application and evaluation process." On appeal, the Petitioner reiterates his contentions. The Petitioner's assertions are not well taken.

As stated above, the *USCIS Policy Manual* precludes "requirement[s], compulsory or otherwise, for employment in certain occupations" as evidence of outstanding achievements required for membership. The requirements as set forth in the BCSP bylaws are for, as the Petitioner stated, "inclusion within a defined and selective professional group." So, it is plain that BCSP certification, at either one or both of the levels the Petitioner holds, is not demonstrative of 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.

However, even if were to consider BCSP certification as something other than a professional certification, we would still conclude that it did not constitute a membership in associations in the field for which 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. The evidence in the record does not demonstrate how educational, experiential, and training "prerequisites, examination-based proof of competence, ethical compliance, and ongoing recertification" constitute outstanding achievements. Moreover, the record does not identify the recognized national or international experts making "eligibility determinations" for certification by BCSP. BCSP's bylaws stated that a "Board has final authority for the purpose of examining and certifying candidates and credential holders." But the BCSP Board's members are unidentified. So, we cannot determine if they are recognized as national or international experts in their field.

For all the reasons discussed above, we conclude that the Petitioner does not meet this criterion.[2]

B. *"Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v).*

The Petitioner claims the record contains "independent, contemporaneous, and expert-vetted" documentation of his original contributions of major significance to his field. Specifically, he credits himself with the "co-creation and authorship of the [redacted] a mining company that previously employed him. The Petitioner was part of a four-person group that purportedly set out original "procedures, role assessments, inter team coordination, scene isolation, institutional communication, and root cause analysis."

[2] If the criteria do not readily apply to a petitioner's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility. 8 C.F.R. § 204.5(h)(4). Here, the Petitioner contends that his "certifications, licenses, and advanced training credentials…constitute[] evidence of comparable significance" to the regulatory criteria. When evaluating such comparable evidence, USCIS must consider whether the regulatory criteria are readily applicable to the person's occupation and, if not, whether the evidence provided is truly comparable to the criteria listed in that regulation. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). But it is the Petitioner's burden to demonstrate that the regulatory criteria do not readily apply to him. *See Zizi v. Cuccinelli*, No. 20-CV-07856-SVK, 2021 WL 2826713, at *8 (N.D. Cal. July 7, 2021) (holding that "it is Plaintiff's burden to demonstrate that the standards in [(h)(3)] did not readily apply to his occupation before USCIS is required to consider comparable evidence"). The Petitioner did not identify which criterion he hoped his comparable evidence would satisfy. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 190 (D.N.J. 2021) (finding to demonstrate eligibility for 8 C.F.R. § 204.5(h)(4), the plaintiff must first show that one of the criteria was not readily applicable to her field). So, his submission of supposedly comparable evidence is insufficient.

The Petitioner proposed that his ostensibly original contributions exerted major significance to his field because he claims they led to "measurable fatality elimination, internal replication, and institutional elevation." In support the Petitioner initially submitted a copy of [redacted] He also submitted several letters, specifically a letter from [redacted] safety manager, [redacted] letter from [redacted] project leader, [redacted] independent expert opinion from [redacted] associate director, [redacted], and a letter of [redacted] safety manager, [redacted] In response to the RFE, the Petitioner submitted revised letters from [redacted] a letter from [redacted] general manager, [redacted] a letter from [redacted] human resources manager, [redacted] and a letter from [redacted] general manager, [redacted]

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 his or her 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 v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013). Relevant evidence 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.
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Analysis under this criterion focuses on whether the person's original work constitutes major, significant contributions in the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1).

Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Submitted letters should specifically describe the person's contribution and its significance in the field and should set forth the basis of the writer's knowledge and expertise. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner contends that his "co-creation and authorship of the [redacted] "demonstrates field-shaping influence rather than employer-bound performance." But the evidence submitted lacks indicia of impact on the field and therefore does not support the Petitioner's contention. For example, [redacted] initial and supplemental letters do not describe nor refer to evidence in the record that would support the field-shaping influence of the Petitioner's work. Instead, her initial letter was a personal recommendation letter describing the Petitioner's professional career highlights at [redacted] And her supplemental letter submitted in response to the RFE noted that the Petitioner's work on the railroad accidents

component of [redacted], requiring "the detailed reconstruction of prior fatal accidents along [redacted] rail corridors" in furtherance of setting up a "unified, enterprise-wide fatality response system" was simply a "company-wide protocol integrating engineering, operations and emergency teams under a standardized set of actions." *See Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, at *5 (N.D. Tex. Nov. 29, 2022) (stating that "[c]ourts have routinely affirmed agency decisions that held § 204.5(h)(3)(v) 'requires substantial influence beyond one's employers, clients, or customers); *see also Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *Visinscaia* 4 F. Supp. 3d at 134; *Strategati, LLC v. Sessions*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at *6 (S.D. Cal. May 31, 2019). In fact, even when describing a supposed expanded impact, the Petitioner described company achievements (a period of time without a single fatal accident) and expansion within [redacted] international units. And the Petitioner asserts that elements of the [redacted] were integrated into the training materials of the Federal Highway Police of an unknown jurisdiction. But it is not evident from the record if "the elements of the [redacted] – particularly those relating to scene control and communication flow" were the Petitioner's contributions to his field. Moreover, even assuming arguendo that they were the Petitioner's contributions to his field, it is not evident how incorporation into the training materials of a Federal Highway Police of an unknown jurisdiction would elevate the status of the contributions to a level commensurate with major significance to the field.

The Petitioner initially submitted a "professional assessment" authored by [redacted] addressed to "Director of [redacted] [redacted] assessment appears to be a professional recommendation letter wherein the Petitioner's contributions, such that they are, are described in the context of [redacted] "institutional safety culture." [redacted] does mention that the Petitioner's "methodologies" were "disseminated through academic and professional forums, such as the SHO 2019 International Symposium on Occupational Safety and Hygiene." But the record reflects that the Petitioner's submission to the symposium generally discussed a [redacted] and a [redacted] It did not refer to the "co-creation and authorship of the [redacted] that the Petitioner identified as his purported original contribution of major significance to his field.

Moreover, the record does not contain any evidence establishing a link between the subject of the article [redacted] mentions and the Petitioner's claimed original contribution of major significance. And, whilst [redacted] did mention, like [redacted] that the Petitioner's work was "integrated into governmental training initiatives in collaboration with the [redacted]" he does not identify the specific work other than a vague reference to the Petitioner's "methodologies." Moreover, in the supplemental letter the Petitioner submitted in response to the RFE, [redacted] identified the Petitioner as "one of five specialists selected by [redacted] upper management to design [the [redacted]." This was also mentioned by [redacted] in his letter. But again, the Petitioner's selection was by his employer for his employer's own initiative, the [redacted] Additionally, the evidence in the record does not support how contributions, even of importance, to this employer are elevated to a level of major significance to his field. *See Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *6 (N.D. Tex. June 17, 2025) (upholding plaintiff did not provide specific examples to show the major significance of his contributions in the field as a whole).

And whilst the letters of [redacted] provide employment verification and confirmation of the Petitioner's required job duties, they do not describe how the work product in the form of the railroad accidents section of [redacted] was widely adopted, is of major

significance to his field as a whole, or refer to corroborating evidence in the record to support such a conclusion. *See Soni v. United States*, No. CV 11-2431, 2016 WL 4154137, at *5 (D.N.J. Aug. 2, 2016) (finding that dearth of supporting evidence is an appropriate reason to discount conclusory statements).

The Petitioner also provides employment verification letters from [redacted], a project engineer with the [redacted] who collaborated with the Petitioner and [redacted] whilst the Petitioner was employed there, and [redacted]. The Petitioner asserts his employment with [redacted] in the United States is "independent operational validation that [his] methods are effective in American regulatory environments." However, none of the letters the Petitioner submitted into the record indicate the Petitioner was selected for employment due to his "methods." Nor do the letters identify the Petitioner's specific methods or how they relate to his "co-creation and authorship of the [redacted] that he highlights as his original contribution of major significance to his field. Moreover, the record does not indicate how the Petitioner's subsequent employment is an original contribution to his field attaining a level of major significance.

The Petitioner initially referred to [redacted] letter as providing "independent expert recognition" but [redacted] himself advised that he wrote to "provide [his] strongest recommendation." We note that [redacted] stated he worked with the Petitioner at [redacted] from 2012 to 2016. In his letter, [redacted] provides an effusive description of his colleague, the Petitioner's, employment duties during their joint tenure at [redacted] working on a project of note expanding a regional railroad. [redacted] also described the project's scope, noting that it composed 8,700 corporate and contractor personnel with a budget of $19.5 billion. [redacted] also notes that the Petitioner intends to "pursue a Doctorate in the U.S."[3] But [redacted] glowing recommendation stops short of crediting the Petitioner with any specific major contribution, like the "co-creation and authorship of the [redacted]" the Petitioner has identified as his original contribution of major significance to his field. *See Skokos v. United States Dep't of Homeland Sec.*, No. 209CV00193RLHPAL, 2010 WL 11538054, at *4 (D. Nev. Jan. 13, 2010), *aff'd sub nom. Skokos v. U.S. Dep't of Homeland Sec.*, 420 F. App'x 712 (9th Cir. 2011) (holding that while a skilled professional in the field, there was no evidence to suggest the plaintiff's professional contributions are original or that they have been of major significance).

And whilst [redacted] stated that the Petitioner's contributions helped [redacted] "experience[e] a 96% reduction in lost-time accidents and a 100% elimination of fatal accidents," his letter does not describe and is not supported by corroborating evidence in the record that such improvements at [redacted] were considered original and majorly significant contributions to the field. Aside from describing the improvements [redacted] experienced, [redacted] did not go further to illuminate how the Petitioner's work influenced his field. *See Agrawal v. Miller*, No.

[3] Neither an offer for employment in the United States nor a labor certification is required for the EB-1 permanent immigrant classification the Petitioner seeks. But the statute requires the Petitioner enter the United States to continue work in the area of extraordinary ability. Section 203(b)(1)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(1)(A)(ii). We note that pursuit of a doctorate, i.e. further study, is not compatible with continued work in an area of extraordinary ability. However, we need not consider this matter further as our decision today is based on other dispositive issues. *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).

4:24CV3143, 2025 WL 2879217, at *20 (D. Neb. Sept. 12, 2025) (upholding that the authors of the letters failed to specifically describe how the contributions have been implemented throughout the field or provoked widespread public commentary in the field).

The Petitioner also asserted in his initial petition that the publication of his "methodologies" in "internationally recognized scientific venues" demonstrated "field adoption and influence by placing [the Petitioner's] methods in peer accessible channels." Specifically, the Petitioner pointed to publications appearing in SHO 2019 and 2025 conference proceedings. Published research that has provoked widespread commentary on its importance from others working in the field, and documentation that it has been highly cited relative to others' work in that field, may be probative of the significance of the person's contributions in the field of endeavor. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). However, as we said previously, his publications revolve around subjects unrelated to his "co-creation and authorship of the [redacted] The record does not contain any evidence that relates the subjects of the articles appearing in the conference proceedings to his claimed contributions. The publication of his unidentified "methodologies" in these seemingly unrelated matters do not support the originality or level of significance of his claimed contribution to his field. So, we conclude the Petitioner has not demonstrated eligibility for the claimed criterion.

C. *"Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii).*

The criterion at 8 C.F.R. § 204.5(h)(3)(viii) requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." A leading role may be demonstrated by evidence that establishes the individual is or was a leader within an organization or establishment, or a division or department thereof. An alien may fulfill a critical role in an organization or establishment, or a division or department thereof under this criterion. And a critical role may encompass a supporting role. But the evidence must establish that the alien's contributions through the critical or supporting role are 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." *See generally* 6 *USCIS Policy* Manual, *supra*, at F.2(B)(1).

The Petitioner avers that "the record demonstrates that [the Petitioner's] roles at [redacted] were both leading and critical" as described in the criterion. The Petitioner held the position of senior occupational safety engineer at [redacted] He also claims that he served as a safety manager at [redacted] In the United States, the Petitioner claims that he has continued to serve in leading and critical roles as [redacted] site safety and health officer and safety specialist at [redacted] But none of the Petitioner's roles support his claim under this criterion.

The evidence the Petitioner submitted is insufficient for us to evaluate if the Petitioner occupied leading or critical roles at the entities he identified. The record does not contain sufficient evidence, such as a job description, an organizational line and block chart, or other similar evidence to establish the level at which his role was situated in the employer's hierarchy. *See Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *7 (N.D. Tex. June 17, 2025) (upholding plaintiff did not provide sufficient evidence about his overall responsibilities and rank within the organizational hierarchy to establish his roles were either leading or critical). *See also Chivukula v. Allen*, No. 3:22-

CV-0381-S, 2023 WL 4504601, at *6 (N.D. Tex. May 1, 2023) (finding USCIS did not add novel requirements by stating that the plaintiff did not include documentary evidence establishing whether his role was more leading or critical than other individuals at the same level) and *Krasniqi v. Dibbins*, 558 F. Supp. 3d at 189 (finding it reasonable to request specific duties as evidence of a leading or critical role).

The evidence the Petitioner submitted consisted of letters from individuals who had worked with him or occupied administrative roles at the employers. Letters from persons with personal knowledge of the significance of the person's leading or critical role can be particularly helpful when evaluating a petitioner's claim to the criterion, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). But such letters lack probative value if they do not specifically address how the role was leading or critical. *See Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *21 (D. Neb. Sept. 12, 2025) (finding that testimonial letters are not particularly valuable unless the letters specifically address how the role was leading or critical).

It is unclear exactly what role the Petitioner held at [redacted] He states that he served as [redacted] senior occupational safety engineer. But [redacted] civil engineer manager, [redacted] identified the Petitioner's role as "contract manager" and that he was promoted into an unspecified "leadership role overseeing Electrical and Signaling Implementation" and not occupational safety as he represented. Moreover, [redacted] letter did not sufficiently describe the work the Petitioner performed in detail. Instead, it described vague "ability[ies] to clarify doubts" or "facilitate swift-problem solving, ensuring minimal disruption to project timelines." Or it described "exceptional abilities in contract management" or the Petitioner's "approach to safety, inspections, and the application of tools." And whilst he mentions the Petitioner's "legacy in organizing and structuring the safety area" in the [redacted] he does not elaborate on how this role was critical other than to vaguely assert that he "had a lasting impact on the project and the company."

The Petitioner also submitted employer verification letters from [redacted] human resources, at [redacted] HR specialist at [redacted] Whilst both letters identify the Petitioner's job title and job duties, neither letter sheds any light on the Petitioner's specific role and how it is classifiable as leading or critical at the respective companies. *See Visinscaia*, 4 F. Supp. 3d at 134 (upholding the lack of sufficient detail regarding the plaintiff's role at an organization did not show he could satisfy this criterion on the basis of the letter alone).

And the Petitioner's role at [redacted] is similarly unclear. In support of his claim, the Petitioner submitted a letter from [redacted] safety manager at [redacted] did not work with the Petitioner; he met him when the Petitioner spoke about crane safety at an occupational health and safety workshop. The Petitioner represents in the initial petition that he served as [redacted] safety manager. But the letter of [redacted] states that the Petitioner was hired as a consultant by [redacted] Evidence submitted in response to the RFE indicated the Petitioner was hired as a consultant by [redacted] which is discrepant from the safety manager position he stated he occupied in the initial petition. The divergent, vague, and unclear presentation of the Petitioner's role at [redacted] raises concerns about the sufficiency of [redacted]

[redacted] letter and its applicability to the Petitioner's claim. Doubt cast on any aspect of a petitioner's evidence may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

So, we will withdraw SCOPS' conclusion. We conclude the Petitioner has not established his eligibility under this criterion.

D. "*Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*" *8 C.F.R. § 204.5(h)(3)(ix).*

In order to satisfy this criterion, the Petitioner must show that the person's salary or remuneration is high relative to the compensation paid to others working in the field. *See generally* 6 *USCIS Policy* Manual, *supra*, at F.2(B)(1). USCIS does not interpret the phrase "has commanded" to mean that the person must have already earned such salary or remuneration in order to meet the criterion. Rather, a credible contract or job offer showing prospective salary or remuneration may establish that the person has been able to command such compensation. *See generally* 6 *USCIS Policy* Manual, *supra*, at F.2(B)(1). Evidence regarding whether a petitioner's compensation is high relative to what of others working in the field can include compensation surveys and organizational justifications so long as the description of the occupation matches, the validity of the survey is credible and reliable, and the location, currency, and salary rate being measured are comparable. *See generally* 6 *USCIS Policy* Manual, *supra*, at F.2(B)(1).

The Petitioner asserts that he was offered a salary of $130,000 plus performance-based bonuses and full executive benefits for his employment with [redacted] But the evidence in the record demonstrates the Petitioner is not an employee of [redacted] The evidence in the record indicates [redacted] is a client of [redacted] Virginia. [redacted] offered the Petitioner $87,360 based on a 40-hour work week. Overtime and other compensation, such as laptop and cellphone use, per diems, and travel are per occurrence and not quantified in the agreement. So, the salary the Petitioner could command under the terms of the agreement is $87,360 and any amount above that is variable based on non-performance measures such as laptop and cellphone use, per diems, and travel.

The Petitioner also submitted an agreement with [redacted] that contained a $104,000 full-time 40 hour a week salary offer. And contrary to the Petitioner's representations, the compensation was not "supplemented by additional variable remuneration tied to specialized consulting." Exhibit A of the agreement contains full-time and overtime hourly pay. There is no allowance for any additional remuneration. In fact, the Petitioner under the terms of the agreement is required to "be responsible for all expenses incurred while performing the Services" and can only seek reimbursement for those expenses that were "both reasonable and necessary to the Services provided" under the agreement.

The agreement with [redacted] contained a description of the duties anticipated to be performed under the agreement that was not "all-inclusive." The agreement with [redacted] did not contain any description of the anticipated duties. So, the evidence in the record does not support the Petitioner's assertion that the offered salary reflects roles with [redacted] and [redacted] that "describe roles of strategic and consultative authority."

In response to SCOPS' RFE, the Petitioner abandoned the contentions he advanced in the initial petition and submitted a USIRS Form W-2, Wage and Tax Statement, from his employment with [redacted] The Form W-2 the Petitioner submitted reflected that he had earned $94,203.83 in CY 2023. The Petitioner asserted that the wages he commanded and earned from [redacted] exceeded the median salary for "Occupational Health and Safety Specialist" contained in the U.S. Department of Labor's Occupational Information Network (O*NET) Occupational Health and Safety Specialists standard occupational category (SOC) 19-5011.00

The record contains a printout from the U.S. Department of Labor's Occupational Information Network (O*NET) Occupational Health and Safety Specialists standard occupational category (SOC) 19-5011.00. The Petitioner notes the median salary for professionals in the category is $83,910. In response to the RFE, the Petitioner submitted a copy of the "Occupational Health and Safety Technicians" occupational category as contained in the U.S. Department of Labor's *Occupational Outlook Handbook* (*Handbook*). *See* Bureau of Labor Statistics, U.S. Dep't of Labor, Occupational Outlook Handbook, Occupational Health And Safety Specialists (May 13, 2026), https://www.bls.gov/ooh/healthcare/occupational-health-and-safety-specialists-and-technicians.htm. The *Handbook* reflects a lower median salary of $78,900. The Petitioner does not explain the reason for his adjustment of comparative wage data and how the data he submitted in response to the RFE is more applicable than that which he submitted with the initial petition.

But, even if we set that aside, it is not clear that either of the U.S. Department of Labor materials he submitted as points of reference for salary comparisons apply to the position he occupied with [redacted] The regulatory requirement that the commanded salary be high "in relation to others in the field" is interpreted as allowing comparisons to those employed in the same occupation at a similar level. *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. U.S. 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. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). The Petitioner's position description in [redacted] letter notes that the position requires the incumbent to exercise oversight and management responsibilities. The *Handbook* and the O*NET entry the Petitioner submitted make no allowance for management duties. So, it is not evident that the salary data contained in the materials the Petitioner submitted applies to the same occupation at a similar level to his position with [redacted] and the wages he commanded whilst employed there.

We conclude the Petitioner has not demonstrated that his salary is high compared to others working in the field and we withdraw SCOPS' conclusion to the contrary.

E. Final Merits Determination

The Petitioner did not meet the evidentiary standard .So, we are not required to make a final merits determination. But, as the Petitioner's appeal contends that he has sustained acclaim, will continue to work in the area of his claimed extraordinary ability, and will substantially benefit the United States of America prospectively as a permanent resident, we will conduct a final merits determination. Upon our de novo review of the record we conclude that, even if the Petitioner had established that he met the evidentiary standard we would nonetheless conclude he did not demonstrate eligibility for the classification because the evidence does not indicate he has sustained national or international acclaim and is one of the small percentage at the very top of his field of endeavor with achievements 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, 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).

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). 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.[4] 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. 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

[4] *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).

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).

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 he 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 institutions 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.

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. USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *Matter of Price*, 20 I&N Dec. at 954. Whilst the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, we find the record insufficient to demonstrate that he has sustained national or international acclaim and is among the small percentage at the top of his field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).[5]

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above-stated reasons, with each considered as an independent and alternate basis for the decision.

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.

[5] 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) and whether his entry to the United States will substantially benefit prospectively the United States under section 203(b)(1)(A)(iii).