U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41002346

Date: JUL. 27, 2026

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

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

The Petitioner seeks classification as an individual 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 aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id.*

USCIS denied the petition, concluding that the Petitioner did not establish his receipt of a major internationally recognized award, or, in the alternative, demonstrate that he meets at least three of the ten initial evidentiary criteria for this classification. 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

To qualify for classification as an alien of extraordinary ability under section 203(b)(1)(A) of the Act, a petitioner must demonstrate that they:

- Have "extraordinary ability" in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim;
- Seek to continue work in their field of expertise in the United States; and
- Would offer substantial benefits to the United States.

The term "extraordinary ability" means expertise commensurate with "one of 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 his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If a petitioner does not submit this evidence, then he

or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as awards, published material in certain media, and scholarly articles). If these standards do not readily apply to a petitioner's occupation, they may submit comparable evidence to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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, 1121 (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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

The Petitioner received a bachelor's degree in industrial engineering from a Venezuelan university in 2009. His curriculum vitae indicates that since receiving his degree, he has worked as a procurement analyst, administrative analyst, operations analyst, purchasing and bidding analyst, and head of contracts administration for various employers in Venezuela. The Petitioner filed this petition in May 2023 after being admitted to the United States in B-2 status as a visitor in December 2022.

A. Evidentiary Criteria

The Petitioner has neither claimed nor documented that he has received a major internationally recognized award. He therefore must establish that he meets at least three of the ten initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claimed eligibility under eight of the ten criteria, including:

- Memberships in associations in his field that require outstanding achievements;
- Published material about him and his work;
- Participation as a judge of others' work in his field;
- Original contributions of major significance in his field;
- Authorship of scholarly articles;
- Performance in leading or critical roles for organizations that have a distinguished reputation;
- High salary or other significantly high remuneration for services in relation to others; and
- Commercial successes in the performing arts.

8 C.F.R. § 204.5(h)(3)(ii)-(vi) and (viii)-(x).

USCIS determined that the Petitioner did not demonstrate that he satisfied any of the eight claimed criteria. On appeal, the Petitioner contends that USCIS did not address the evidence he submitted with specificity or adequately explain why the evidence was insufficient to support his claim that he qualifies as an alien of extraordinary ability. He requests that the matter be remanded to USCIS for issuance of a new decision.

As a preliminary matter, we will address the Petitioner's contention that USCIS failed to properly review and analyze his evidence and applied a standard of proof that exceeds the preponderance of the evidence standard. Under the preponderance standard, we consider not only the quantity, but also the quality of the evidence, including its relevance, probative value, and credibility. *Matter of Chawathe*, 25 I&N Dec. at 376; *see also Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989).

When USCIS provides a reasoned consideration of a petition and has made adequate findings, it will not be required to specifically address each claim the petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *see also Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993).

To satisfy the initial evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i)-(x), the Petitioner's evidence must objectively meet the parameters of the applicable regulatory descriptions. *See generally* 6 *USCIS Policy Manual, supra* at F.2(B). Here, although USCIS did not address every piece of evidence the Petitioner presented under these criteria, the record reflects that the decision acknowledged and analyzed various documents on record, provided a reasoned consideration of the criteria under the preponderance of the evidence standard, and has made adequate findings that comply with 8 C.F.R. 103.2(a)(1)(i) (requiring USCIS to explain in writing the specific reasons for denial).

Further, for the reasons discussed below, the record supports USCIS' determination that the Petitioner has not demonstrated, as required, that he satisfies at least three of the ten initial evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i)-(x).

1. Memberships

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for "documentation of the alien's membership in associations in the field for which classification is sought." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained outstanding achievements in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner claimed eligibility under this criterion based on his membership in the College of Engineers of Venezuela. He submitted: (1) a copy of his expired membership card; (2) Venezuela's "Law on the Practice of Architecture and Engineering Related Professions"; and (3) excerpts from the College of Engineers' web site with details regarding its history and code of professional ethics.

USCIS concluded that the evidence demonstrated the Petitioner's membership in the College of Engineers of Venezuela but did not identify the association's requirements for membership or discuss how membership applications are judged. Therefore, USCIS concluded that the evidence did not demonstrate that the association requires prospective members to have "outstanding achievements" as a condition for membership and that those achievements are "judged by recognized national or international experts in their disciplines or fields."

On appeal, the Petitioner emphasizes that the College of Engineers of Venezuela is a professional association, noting that, according to the *USCIS Policy Manual*, qualifying memberships may include "membership in certain professional associations." He asserts that "[t]he admission process involves completing an application and demonstrating educational and professional qualifications," and contends that "there is no doubt" that he demonstrated eligibility under this criterion.

The referenced section of the *USCIS Policy Manual* states that membership in "certain professional associations" *may* satisfy the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(ii) and provides an illustrative example of circumstances under which such a membership may be qualifying. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The policy guidance does not state that a petitioner will automatically meet this criterion based on evidence of membership in a professional association. In fact, USCIS policy specifically states that a membership in an association that admits members solely based on possessing a certain level of education or years of experience in a particular field will generally *not* qualify as a membership that is based on outstanding achievements in the field. *Id.* Therefore, the Petitioner's claim that members in the College of Engineers of Venezuela are required to demonstrate their "educational and professional qualifications" is not sufficient to demonstrate that his membership satisfies the requirements of this criterion.

As noted in USCIS' decision, the record lacks evidence documenting the requirements for membership and therefore does not demonstrate that the College of Engineers of Venezuela only admits members who have outstanding achievements as judged by recognized national or international experts in the field. Accordingly, the Petitioner has not demonstrated that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

2. Published Material

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.*

The Petitioner claimed eligibility under this criterion based on an article he co-authored entitled "[redacted]" published in the journal *Centro de Investigacion de Ciencias Administrativas y Generciales* (CICAG) in 2012. The Petitioner states that the article "encourages the scientific community to work on the development of software that is necessary to increase regional and national competitiveness."

To satisfy this criterion, the published material should be about the petitioner and relate to their work in the field. The published material may cover a broader topic if it also includes a substantial discussion of the petitioner's work and mentions the person in connection to the work. We may also consider published material that focuses on work or research being undertaken by a team of which the petitioner was a member, providing that the material mentions them in connection with the work or other evidence documents their significant role in the work or research. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Here, USCIS determined that the article the Petitioner co-authored does not fall within any of these parameters and cannot be accepted as published work that is "about" him and relating to his work.

On appeal, the Petitioner assert that USCIS "erred . . . by disregarding substantial evidence regarding his research," and claims that the article published in CICAG satisfies both this criterion and the criterion at 8 C.F.R. § 204.5(h)(3)(vi). He does not, however, specifically contest USCIS' determination that the submitted CICAG article cannot be categorized as published material written about him or his work in the field, as required by the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iii). We will consider this evidence under the criterion at 8 C.F.R. § 204.5(h)(3)(vi) below, as the record supports USCIS' conclusion that the article does not satisfy the requirements of this criterion.

3. Participation as a Judge

The regulation at 8 C.F.R. § 204.5(h)(3)(iv) calls for "evidence of the alien's 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." The alien must show that they not only received invitations to participate as a judge of the work of others in their field, but also that they have actually participated in such judging. *See generally* 6 *USCIS Policy Manual*, *supra* at F.2(B)(1). Examples of judging may include peer review for a scholarly journal, conference, or government research funding program or serving as a member of a Ph.D. dissertation committee. *Id.*

USCIS concluded that the Petitioner did not submit evidence satisfying the plain language of this criterion, because he relied solely on statements made by counsel. In a cover letter submitted in response to a request for evidence (RFE), counsel asserted that the Petitioner has held "supervisory roles," has been "entrusted with the responsibility of assessing and evaluating the work of others, both individually and as part of a panel," and has evaluated "the performance, skills, and outcomes of teams, technicians and subcontractors." USCIS observed that counsel's unsubstantiated assertions did not constitute evidence. *See, e.g.*, *Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight").

We note counsel's RFE response letter referred to "evidence submitted in the initial package" that relates to this criterion. We have reviewed the initial evidence and observe that the Petitioner did not claim eligibility under this criterion at the time of filing or otherwise state he was providing evidence of his participation as a judge of the work of others. Both the initial submission and the RFE response included recommendation letters from prior employers, but the content of those letters did not corroborate counsel's assertions that the Petitioner's roles have included responsibility for assessing or evaluating the work of others in his field.

Further, on appeal, the Petitioner does not address USCIS' determination that the record lacks independent evidence demonstrating his participation as a judge of the work of others; rather the appellate brief repeats the same statements submitted in response to the RFE. The Petitioner's claimed judging activities have not been sufficiently documented in the record. Accordingly, we conclude that he has not satisfied this criterion.

4. Authorship of Scholarly Articles

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) calls for "evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." In academia, a scholarly article reports on original research, experimentation, or philosophical discourse, is generally peer reviewed, and may be published in professional or scientific journals or conference presentations. *See generally* 6 *USCIS Policy Manual*, *supra* at F.2(B)(1).

To determine whether the publication qualifies as a professional or major trade publication or other major media, we consider such relevant factors as the circulation or readership relative to other media in the field and the intended audience (for professional journals). *Id.*

As noted above, the Petitioner claimed eligibility under this criterion based on his co-authored article entitled '[redacted]," published in CICAG in 2012. We conclude that the Petitioner has demonstrated both his co-authorship of this peer-reviewed article and the scholarly nature of the published work. Further, he met his burden to show that the article appeared in a professional publication based on evidence describing CICAG's intended audience. Accordingly, the Petitioner has demonstrated that he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(vi).

5. Performance in a Leading or Critical Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." The role may be shown to be leading or critical for a division or department of an organization or establishment, or for the organization or establishment overall. Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. For a critical role, evidence should show that the alien has contributed in a way that is important to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. In determining whether the organization or establishment, or a department or division thereof, has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *See generally* 6 *USCIS Policy Manual*, *supra* at F.2(B)(1).

In its decision USCIS considered recommendation letters from six current and former employees of [redacted] who stated they worked with the Petitioner during his tenure with this Venezuelan company between 2014 and 2022. USCIS concluded that the record lacked corroborating evidence demonstrating that he held a leadership position or that he contributed in a way that was important to the outcome or standing of the organization or its activities. Further, USCIS emphasized that the Petitioner did not submit evidence demonstrating that his former employer has a distinguished reputation.

On appeal, the Petitioner does not directly address USCIS' stated reasons for denial. He summarizes his complete employment history dating back to 2008 and claims that his "array of position[s] and the responsibilities associated with him, coupled with the implicit reputation of the organizations involved, meets the criteria outlined."

It is the Petitioner's burden to demonstrate that he has performed in a leading or critical role for an organization or establishment that has a distinguished reputation. As noted, USCIS evaluates the reputation of an organization or establishment based on factors that include, but are not limited to, its relative size or longevity, relevant media coverage, evidence of the size of its customer base, industry rankings, and other relevant evidence. *See generally* 6 *USCIS Policy Manual*, *supra* at F.2(B)(1).

The Petitioner has not submitted this type of evidence and instead seeks to rely on an unsupported statement regarding his former employers' "implicit reputation." He has therefore not met his burden to demonstrate that any of his prior employers enjoyed a distinguished reputation. Absent such a showing, he cannot demonstrate that he meets this criterion; therefore, we need not reach the issue of whether he has performed in a leading or critical role for [redacted] or any other organization. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

For the reasons discussed, the Petitioner has not demonstrated that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

6. High Salary or Other Significantly High Remuneration

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

The Petitioner submitted the following evidence in support of this criterion:[1]

- Letter from [redacted], stating the Petitioner had been employed as a Senior Contract Administrator since December 2014 and earned a monthly salary of €3,500.00 as of December 2022.
- Employment agreement with [redacted] indicating he was hired as a Contract Administrator in December 2014, with a net monthly basic salary of 20,000 Bolivars (Bs.).
- Certificate of Employment from [redacted] confirming the Petitioner's employment as a "Professional I" from September 2011 through January 2014. The certificate indicates he earned a monthly salary of Bs. 8,480 and received additional food and medical benefits.
- Employment Letter from [redacted] indicating that the Petitioner worked for this company as a buyer during the month of August 2010 and earned a monthly salary of Bs. 2,500.

[1] The record also includes additional employment certificates from [redacted] and [redacted] but these documents do not state the Petitioner's salary or other remuneration he received.

USCIS determined that the record did not sufficiently document the compensation the Petitioner received for his services and emphasized that he did not provide comparative wage data to demonstrate that he received a high salary or other significantly high remuneration relative to others.

On appeal, the Petitioner asserts that USCIS overlooked the submitted employment letters, noting that they demonstrate that he "received both a salary and remuneration" for "services in roles closely related to engineering services for over two decades."

While we acknowledge the Petitioner's submission of employment letters from all his claimed prior employers, and the inclusion of salary information in some of those letters, he cannot satisfy this criterion based on evidence that he received "a salary" or other remuneration for his services. The regulation at 8 C.F.R. § 204.5(h)(3)(ix) requires the submission of evidence to demonstrate that he commanded a "high salary or other significantly high remuneration for services in relation to others in the field."

Evidence regarding whether a petitioner's compensation is high relative to others working in the field may take many forms, including comparative wage or remuneration data, such as geographical or position-appropriate compensation surveys. Here, as noted by USCIS, the Petitioner did not offer evidence intended to show how the salaries he has commanded compare to those of others working in the same occupation and geographic area and therefore did not meet his burden to demonstrate that he has commanded a "high salary" or "other significantly high remuneration." Accordingly, he has not demonstrated that he meets this criterion.

7. Commercial Successes in the Performing Arts

The regulation at 8 C.F.R. § 204.5(h)(3)(x) calls for "evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales." The evidence must show that the volume of sales or box office receipts reflects the alien's commercial success in the performing arts relative to others involved in similar pursuits. *See generally* 6 *USCIS Policy Manual*, *supra* at F.2(B)(1).

In response to USCIS' request for evidence, the Petitioner stated that this criterion is not readily applicable to his occupation and indicated he was seeking to establish his eligibility based on comparable evidence under 8 C.F.R. § 204.5(h)(4). He emphasized that he has a bachelor's degree in engineering, completed "several complementary studies within the field," and has worked with "several employers in the field."

USCIS determined that the Petitioner did not provide evidence of any experience in the performing arts or demonstrate that he meets this criterion based on comparable evidence under 8 C.F.R. § 204.5(h)(4). On appeal, the Petitioner repeats his assertion that he satisfies this criterion through comparable evidence based on his qualifications and work experience as an engineer.

If a petitioner provides comparable evidence to establish eligibility under one of the criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), USCIS evaluates whether the evidence is comparable to the evidence required under that specific criterion. Here, the Petitioner has not met his burden to demonstrate that his

qualifications and work experience in the engineering field should be considered comparable to the evidence required by the "commercial successes in the performing arts" criterion.

Under this criterion, the mere fact that a person has recorded and released musical compilations or performed in theatrical, motion picture or television productions would be insufficient in and of itself to meet this criterion because it focuses on the volume of sales and box office receipts as a measure of the person's commercial success. *See generally* 6 *USCIS Policy Manual*, *supra* at F.2(B)(1). Similarly, while the Petitioner provided evidence that he possesses academic qualifications as an industrial engineer and has been steadily employed in a field related to his degree, he has not shown that merely working in the field is sufficient to show his success relative to others involved in similar pursuits. He has therefore not demonstrated that he meets this criterion based on the submission of comparable evidence.

C. Summary and Reserved Criterion

Of the seven evidentiary criteria discussed above, the Petitioner has demonstrated that he meets only one, relating to his authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi). As he claims to meet only one additional criterion, he cannot demonstrate that he meets three criteria and satisfies the initial evidence requirement for the extraordinary ability classification. We therefore need not reach and hereby reserve consideration of his claim that he has made original contributions of major significance in his field. *See INS v. Bagamasbad*, 429 U.S. at 25 (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

B. Final Merits Determination

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that he qualifies as an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 2025) (stating that 8 C.F.R. § 204.5(h)(3) establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa). Nevertheless, we advise that we have reviewed the record in the aggregate and conclude it does not support a finding that the Petitioner has established the sustained acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward that goal. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown the significance of his work is indicative of the required 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. The record does not sufficiently demonstrate that the Petitioner has garnered national or

international acclaim in the field and that he 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; 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an alien of extraordinary ability. Accordingly, the appeal will be dismissed.

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.