U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42218007

Date: JUL. 29, 2026

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

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

The Petitioner, an entrepreneur, 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.

USCIS denied the petition, concluding the Petitioner did not establish that he is sustained national or international acclaim as one of the small percentage at the top of his field to demonstrate his eligibility as an individual of extraordinary ability. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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

I. LAW

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

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

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

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

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). *See also Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) (holding that extraordinary ability visas are known as "Einstein" visas, are extremely "coveted," and are "reserved for only the most talented aliens"). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. U.S. Citizenship & Immigr. Servs.*, 596 F.3d 1115, 1119-20 (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. U.S. Citizenship & Immigr. Servs.*, 772 F. Supp. 2d 1339, 1346 (W.D. Wash. 2011), *aff'd*, 683 F.3d 1030 (9th Cir. 2012).

II. ANALYSIS

A. The Petitioner

The Petitioner is an entrepreneur specializing in the use of artificial intelligence (AI) technologies and customer intelligence. He is the co-founder of [redacted] a business that uses machine learning and language processing to help companies [redacted] His automated platform has been adopted by a number of consumer-facing enterprises, including Netflix, Canva, Chipotle, and iRobot. He has been featured in publications such as TechCrunch and has authored an article for Forbes. He intends to expand the impact of his services by developing new capabilities that anticipate customer needs and help development teams respond with greater speed and precision. His company's services, he states, foster stronger companies and contribute to a more resilient and customer-focused economy by helping businesses better understand and serve their customers.

B. Evidentiary Criteria

As the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must demonstrate that he meets the initial evidence requirements by satisfying at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claimed to have satisfied the following criteria under 8 C.F.R. § 204.5(h)(3):

- (ii), Memberships in associations that require outstanding achievements;
- (iii), Published material about the alien in professional or major trade publications or other major media;
- (v), Original contributions of major significance in the field;
- (vi), Authorship of scholarly articles in professional or trade publications;
- (viii), Performance in a leading or critical role for organizations that have a distinguished reputation; and
- (ix), Commandment of a high salary or other significantly high remuneration.

Service Center Operations (SCOPS) determined that the Petitioner did not establish eligibility under 8 C.F.R. § 204.5(h)(3)(ii) for his membership with the Forbes Technology Council, concluding that the evidence does not meet the plain language of the criterion. However, SCOPS determined that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(iii), (v), (vi), (viii), and (ix). We agree with SCOPS' conclusions concerning the initial criteria. Because the Petitioner demonstrated that he met at least three of the initial evidentiary requirements, SCOPS proceeded to a final merits determination.

C. Final Merits Determination

A final merits determination requires analyzing all of a petitioner's accomplishments and weighing the totality of the evidence to determine if they are among the small percentage at the top of their field and have sustained national or international acclaim sufficient to demonstrate that they have 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) and (3); *see also Kazarian*, 596 F.3d at 1119-20.[1]

As noted above, SCOPS concluded that the Petitioner did not establish that he has sustained national or international acclaim and is among the small percentage at the very top of his field. On appeal, the Petitioner asserts that SCOPS erred in its final merits determination and did not fully account for the evidentiary weight and cumulative impact of the documentation submitted.

We will remand the matter because SCOPS' decision does not sufficiently apprise the Petitioner of the deficiencies in the evidence of record and offers unclear, contradictory, and conclusory statements without discussing the evidence. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal).

For example, pertaining to the published material about the Petitioner, SCOPS states that while articles featuring the Petitioner praise his work, "the evidence does not establish that [he] received national or international acclaim from the published material." However, SCOPS does not discuss which articles they considered and why they do not establish sustained acclaim. On appeal, the Petitioner emphasizes that the chronology of the published materials demonstrates his sustained acclaim from 2022 through 2024. On remand, SCOPS should consider the chronology and any other evidence submitted in support of the published material, and explain why it does or does not establish sustained acclaim and that the Petitioner is at the very top of the field.

[1] *See also* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policy-manual.

Similarly, in discussing the criterion concerning authorship of scholarly articles, SCOPS provides an overview of what the evidence should demonstrate, concluding that the evidence does not indicate that his "authorship has garnered national or international attention" and "cannot be considered influential if the evidence does not show that others have relied upon the author['s] findings." SCOPS advises that not every author who publishes scholarly articles has sustained national or international acclaim and is among the small percentage at the very top of the field. Without further explanation, SCOPS concludes that, "[i]n sum," neither his publication record "nor the field's acknowledgement of the publication record" indicate that he is an individual at the top of the field who has sustained national or international acclaim. On remand, SCOPS should articulate the evidence considered in making this conclusion and explain why the record does not establish sustained acclaim and that he is among the small percentage at the very top of the field.

Concerning the Petitioner's roles for organizations having distinguished reputations, although SCOPS states that the Petitioner established that he "has worked in a leading/critical role," SCOPS determined, without discussion of the evidence, that the evidence does not show whether his professional achievements have garnered him national or international acclaim or demonstrate his recognition on a national or international scale. And without further elaboration, SCOPS concludes that he "did not establish how his roles resulted in widespread acclaim from his field, that he drew significant attention from the greater field, or that [the] overall field considers him to be at the very top of the field of endeavor."

Further, the decision includes statements that contradict SCOPS' determination that the Petitioner met certain criteria. Of the Petitioner's original contributions to his field, SCOPS states that "they may have been successful overall and USCIS does not question that [his] contribution has value." SCOPS then concludes, without explanation, that the record does not contain evidence to support his claim that he is one of the very few at the top of his field. Confusingly, SCOPS follows this conclusion with what appears to be guidance on *Kazarian*'s two-part approach to assessing an individual's extraordinary ability. While SCOPS concludes that the Petitioner has made original contributions of major significance to his field, SCOPS emphasizes that the major significance of contributions "should also be discussed in Part Two [a final merits determination] since many of the same arguments as to why the original contributions are not of 'major significance' can also be articulated to show that they are NOT indicative of [extraordinary ability]." SCOPS does not include an analysis of the Petitioner's contributions.

Similarly, although SCOPS initially found that the Petitioner met the criterion demonstrating that he has commanded a high salary in relation to others in his field, SCOPS states in the final merits determination that the Petitioner has not shown how his "salary for his role compares to others in the field as high" and that the "record does not indicate he has received a high salary in relation to others in the field." SCOPS also included a confusing explanation for its determination that the "amount" of his salary is not indicative of sustained national or international acclaim, stating that "there is no explanation or evidence as to why the petitioner's services would lead to a higher salary amount and if the elevated amount was based on his extraordinary ability to demonstrate that he is considered at the upper echelon of his field" (quoted as written). SCOPS does not articulate deficiencies concerning the Petitioner's salary and contradicts its initial conclusion that he met the requirements of the criterion.

Again, an officer must explain the specific reasons for denying a petition. *See* 8 C.F.R. § 103.3)a)(1)(i). SCOPS did not adequately address the evidence submitted with the initial filing and in response to the RFE and, therefore, did not sufficiently explain the reasons for denial.

III. CONCLUSION

Because SCOPS did not sufficiently address the Petitioner's claims and evidence, providing a decision with an incomplete and unclear analysis of the evidence, we will remand the matter for issuance of a new decision. SCOPS must evaluate the totality of the evidence in the context of a final merits determination. *See Kazarian*, 596 F.3d at 1115. SCOPS must determine whether the Petitioner has demonstrated, by a preponderance of the evidence, his 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. *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; *and see generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2). SCOPS may request any additional evidence considered pertinent to the new determination. As such, we express no opinion regarding the ultimate resolution of this case on remand.

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.