U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37191827

Date: JUL. 31, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an engineer specializing in software quality assurance and project management, 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 who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

SCOPS denied the petition, concluding that while the record showed that the Petitioner met the initial evidence requirement for this classification by meeting at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3), it did not establish that he possessed the requisite sustained national or international acclaim to demonstrate his eligibility as an individual of extraordinary ability. 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 individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States 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 may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a

major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination, assessing whether the record shows that the individual possesses the acclaim and recognition required for this highly exclusive immigrant visa classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

A. Evidentiary Criteria

The Petitioner works as senior quality assurance manager for a company specializing in solar energy and battery storage systems. He intends to continue his work in the field of software development in the United States.

SCOPS concluded that the Petitioner met three of the ten evidentiary criteria:

- 8 C.F.R. § 204.5(h)(3)(iv), participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought;
- 8 C.F.R. § 204.5(h)(3)(vi), authorship of scholarly articles in the field, in professional or major trade publications or other major media; and
- 8 C.F.R. § 204.5(h)(3)(viii), performance in a leading or critical role for organizations or establishments that have a distinguished reputation.

On appeal, the Petitioner asserts that he also meets the criterion at 8 C.F.R. § 204.5(h)(3)(ix), which pertains to having commanded a high salary or other significantly high remuneration for services compared with others in his field. Because SCOPS determined that the Petitioner met at least three of the evidentiary criteria required to establish the initial evidentiary requirements for classification as an individual of extraordinary ability, we will not address the evidence of his salary separately in our decision, but will consider it as part of the totality of the record in the final merits determination.

B. Final Merits Determination

As noted above, once an individual has established that they meet the initial evidence requirement, we conduct a final merits determination. In a final merits determination, we examine and weigh the totality of the evidence to determine whether an individual has demonstrated sustained national or international acclaim, that the individual is one of the small percentage at the very top of their field of endeavor, and that their achievements have been recognized in the field through extensive documentation.

On appeal, the Petitioner asserts that SCOPS did not fully evaluate the evidence of record in reaching a final merits determination. The Petitioner highlights his qualifications under the criteria at 8 C.F.R. § 204.5(h)(3)(iv), (vi), (viii), and (ix) as evidence of his extraordinary ability. As discussed more fully below, the totality of the record does not establish that the Petitioner is eligible for the requested classification.

With respect to the Petitioner's experience judging the work of others in his field, as defined at 8 C.F.R. § 204.5(h)(3)(iv), the record does not demonstrate that he is among the small percentage at the top of his field. The Petitioner submitted evidence of his participation as a judge on several occasions for the [redacted] Awards and the [redacted] Awards—organizations honoring business achievements throughout the world in regional and international competitions and within a variety of categories. The record includes documentation demonstrating that the Petitioner served among groups of hundreds of judges for several award categories for these organizations. The Petitioner indicates that his participation alongside other industry experts as a judge for these awards demonstrates his extraordinary ability in his field. This assertion, however, is not sufficiently supported by the evidence of record. For example, the record includes documentation of criteria used to accept judges, such as the [redacted] Awards statement that "judges are individuals who volunteer their time and expertise" who consist of "industry experts, executives, and professionals from diverse fields who have a wealth of experience and knowledge in their respective areas." The eligibility criteria for judges stipulate requirements such as proficiency in English, a commitment to follow instructions, an agreement to terms and conditions, and attendance of an online orientation meeting. Because the record shows that these awards utilize hundreds of judges for a variety of categories, with selection criteria that do not require extraordinary ability, the Petitioner has not shown that these judging experiences place him among that small percentage who has risen to the very top of his field of endeavor.

The Petitioner also points to his service in a single awards year as a judge for the [redacted], which honor excellence across various modes of media. According to an internet site introduced into the record by the Petitioner, the [redacted] are sponsored by the [redacted] of which the Petitioner became an associate member in 2023.[1] The record shows that [redacted] accepts for membership only applicants it considers "top-level industry experts" within "their peer groups." The Petitioner highlights his [redacted] membership and provides brief biographies of other [redacted] judges, asserting that their credentials demonstrate his extraordinary ability by comparison. This assertion, however, is not sufficiently supported by the evidence of record. Although the biographies of the other judges indicate that they are experienced and knowledgeable individuals in their fields of expertise, it is not evident that any of the judges holds a level of expertise and recognition to meet the requirements of the extraordinary ability classification, nor is it evident that, through his membership with [redacted] the Petitioner possesses a level of recognized expertise sufficient to meet the requirements. In addition, the Petitioner's participation as a judge during a single awards year is not indicative of sustained acclaim.

Further, regarding the Petitioner's [redacted] membership, information provided by the [redacted] website introduced in the record depicts its members as numbering more than 3,000[2]—a sum that calls into question an assertion that membership is limited only to those who have reached the very top of their

[1] [redacted].net (last visited July 31, 2025).
[2] [redacted] (last visited July 31, 2025).

field. Further, we note that there is a tier of membership in [redacted] above the Petitioner's level; the [redacted] website states that [redacted] is comprised, in part, of Executive Members, including "over 1,000 industry leaders and visionaries," and Associate Members who "are former [redacted] winners and nominees and other invited industry professionals who are leaders in their peer groups because of their creative and technical accomplishments."[3] It is not clear that the Petitioner's associate membership in [redacted] compared with the higher-level executive membership, is indicative of an individual considered to be at the very top of his field. In sum, without evidence that sets him apart from others in his field, the Petitioner has not shown that his judging experiences place him among that small percentage who has risen to the very top of the field of endeavor.

Regarding the Petitioner's authorship of scholarly articles in the field, in professional or major trade publications or other major media, as defined at 8 C.F.R. § 204.5(h)(3)(vi), the record includes evidence of his publication of two articles in 2023 on DZone.com, an online forum for a community of software professionals and developers. The record contains documentation showing that DZone is a free publishing platform that serves readership industrywide as a knowledge resource. A printout from the publication's website at https://dzone.com/articles/dzones-article-submission-guidelines shows that submissions are subject to review and technical feedback, stating that "all articles submitted to DZone must go through our moderation and will be edited by [DZone's] team of editors." We observe that although the Petitioner refers to this review as a "rigorous evaluation by experts in the field," the record does not include information identifying the qualifications of the editorial team or what specific standards are necessary for publication. While publication to a widely read forum in the Petitioner's field demonstrates that he has met the plain language definition of the criterion, it does not provide persuasive support to demonstrate the extraordinary ability of an acclaimed individual at the top of his field. The record, for example, does not contain documentation indicating that the requirements for publication extend beyond an article's technical accuracy in the opinion of an editorial team that—as the Petitioner states—publishes the work of "thousands of contributors," nor does it include evidence to show that accepted submissions regularly consist of those authored by experts in the field, as opposed to individuals with basic knowledge of software. The publication of two articles on a free publishing platform—even if vetted through an alleged peer-review process—is not indicative of the publishing history of an individual whose accomplishments are among those at the top of his field, and the fact that his publication history is limited to two articles in single year does not indicate sustained acclaim as an individual at the top of his field.

Concerning the Petitioner's performance in a leading or critical role for organizations or establishments that have a distinguished reputation, as defined at 8 C.F.R. § 204.5(h)(3)(viii), he submitted letters from his current and previous employers, which include major technology companies. A letter from his current employer details his contributions leading a team that "revolutionized [the company's] approach to software testing," by developing an "efficiency enhancement [that] translates into substantial cost savings, amounting to approximately $576,000 annually . . . ." Another letter from his current employer describes his leadership role as a strategic influencer in vendor selection for tools and staffing. Letters from previous employers discuss the Petitioner's critical roles in the success of projects. For example, one states that "he was the linchpin ensuring the software's quality and reliability, elements that formed the bedrock of the client's business operations and, by extension, customer satisfaction." A letter from another previous

[3] *Id.*

employer generally characterizes the Petitioner's "contributions" as "transformative," stating that "his keen domain knowledge enabled us to streamline complex trade finance activities on a global scale, driving down costs and enhancing efficiency." However, while the record demonstrates that the Petitioner's work has created positive impacts for his immediate employers and their clients, the record does not include documentation that ties the Petitioner's leading or critical roles for these companies to recognition in his field for accomplishments garnering sustained national or international acclaim. There is no evidence indicating, for instance, that his work drew attention from the field beyond the accolades of those who have overseen his work and attest to its positive benefits for specific teams or projects.

Finally, with regard to whether the Petitioner commanded a high salary or other significantly high remuneration for services compared with others in his field, as defined at 8 C.F.R. § 204.5(h)(3)(ix), the record includes documentation of his earnings and information from credible online sources for salaries earned in the same year of the Petitioner's employment and in the same geographic location where the Petitioner was employed. This information is for positions that most closely resemble the Petitioner's position for which he claims high remuneration. The evidence demonstrates that the Petitioner was among the highest earners of others in similar positions in his field for the year 2022. The evidence of the Petitioner's high earnings in a single year, however—when considered alongside his limited participation as a judge, his authorship of two peer-reviewed articles, and the remaining evidence of record—does not support his assertion that he is among the small percentage who has risen to the top of his field of endeavor. While the Petitioner may have performed at a highly satisfactory level for his employers, taken together with his brief history judging the work of others and his limited authorship experience on a free online platform, the totality of the evidence does not demonstrate that the Petitioner has garnered a level of recognition for expertise in his field that would be expected from an individual at the top of his field. And while the Petitioner emphasized his length of time working in his field, the record shows that the criteria he highlighted on the filing date of his petition concerning his participation as a judge, his authorship of articles, and his high earnings occurred within a single year; this limited period is insufficient—as required by the Act and pertinent regulations—to demonstrate sustained acclaim in order to qualify for an immigrant visa under this classification. The record, as a whole, does not demonstrate eligibility for the benefit sought.

III. CONCLUSION

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 the top. 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 that 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 otherwise demonstrate that the Petitioner has garnered sustained national or international acclaim in the field and that he is one of the small percentage who have risen to the very top of his field. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). We therefore conclude that the Petitioner has not established his eligibility as an individual of extraordinary ability.

ORDER: The appeal is dismissed.