U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43238519

Date: JUNE 3, 2026

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

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

The Petitioner, the managing director of an electric vehicle (EV) repair and customization shop, seeks classification as an alien of extraordinary ability in business. *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 had not established that he met the initial evidence requirement for this classification through evidence of either a one-time achievement or that he meets three of the alternative evidentiary criteria under 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

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

I. LAW

Section 203(b)(1)(A) of the Act makes 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,
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> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
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> (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). 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. 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

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner asserted that he satisfied the criteria relating to awards, memberships, published material, judging, original contributions, display, and leading or critical role. *See* 8 C.F.R. § 204.5(h)(3)(i)-(v), (vii), and (viii). In denying the petition, USCIS determined that the Petitioner did not fulfill any of these seven evidentiary criteria. On appeal, the Petitioner maintains that he meets all seven of the claimed evidentiary criteria, which will be discussed below.

A. Evidentiary Criteria

1. Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor."

The Petitioner provided evidence showing that his company, [redacted] received two [redacted] (the first and second editions of the contest in 2019 and 2020) honoring [redacted] as a "Leading EV Service Station" in Ukraine. He also presented information indicating that the '[redacted]'" (2019) resulted from a study involving "49 respondents" and that "more than 80 companies and organizations in the EV industry were nominated." Additional information stated that the Second [redacted] Award altered the evaluation format to include an "advisory board of five representatives" as well as "43 experts who assessed the candidates in each nomination." These awards identify [redacted] rather than the Petitioner as

their recipient.[1] *See Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885, at *7 (E.D.N.Y. Sept. 30, 2011) (upholding plaintiff was not named as the award recipient).

In addition, the Petitioner presented documentation indicating that "tuning masters from the [redacted] company built a unique car for the Specialty Equipment Market Association (SEMA) world exhibition" (2023) and that the company's car, the [redacted] "received very favorable reviews from the jury and was included in the [redacted] projects . . . at the festival." He also submitted a press release from SEMA announcing "the [redacted] builders in the 2023 SEMA [redacted]' competition which identifies '[redacted]" and not the Petitioner, as the builder of the [redacted] *See 72andSunny Partners LLC v. Mayorkas*, No. 222CV04465CASGJSX, 2023 WL 5661527, at *7 (C.D. Cal. Aug. 28, 2023) (upholding record did not establish the alien was the intended recipient of awards for which he was not listed).

The Petitioner also offered a medal he received '[redacted]' (2023) and an accompanying certificate signed by [redacted] This medal and certificate honored the Petitioner's efforts to provide humanitarian and logistical support to his community during the early months of the war in Ukraine rather than his excellence in EV repair and customization. He has not demonstrated the significance of his specific medal in the field of endeavor or that it has received media coverage or other attention that rises to the level of national or international recognition.

Furthermore, the Petitioner provided documentation that his vehicles received the "[redacted]' at the [redacted] (2022) at the [redacted] 3rd place in the [redacted]' category at the [redacted] in California (2023), and several [redacted] awards at regional EV Car Shows (2024 - 2025).

While the record includes information about the Petitioner and his company's EV customization awards, he has not demonstrated their significance in the field and that they have received media coverage or other attention that rises to the level of national or international recognition. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 182 (D.N.J. 2021) (finding the regulation requires that the petitioner provide evidence of national or international recognition); *see also Visinscaia v. Beers*, 4 F. Supp. 3d at 136; *Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *8-9 (N.D. Cal. Feb. 16, 2021); *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885, at *8 (E.D.N.Y. Sept. 30, 2011). Without evidence showing his receipt of nationally or internationally recognized awards for excellence in the field of endeavor, the Petitioner has not established he meets this regulatory criterion.

2. Membership

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 classification is sought, which require outstanding achievement of their members, as judged by recognized national or international experts in their disciplines or fields."

[1] *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual (stating that "USCIS determines if the person was the recipient of prizes or awards" and that "[t]he description of this type of evidence in the regulation indicates that the focus should be on the person's receipt of the awards or prizes, as opposed to the employer's receipt of the awards or prizes").

The Petitioner submitted a certificate stating that "[redacted] is a member of the Civic Association 'Electric Vehicle Association of Ukraine'" (EVAU). He also presented a June 2025 letter from the EVAU stating that '[redacted] represented by [the Petitioner], is an official and active member of [EVAU]."[2] In addition, the Petitioner provided the EVAU's bylaws which state:

> 3.1. Members (participants) of the Association may be legal entities of private law, including civic associations with legal entity status.
>
> 3.2. Admission to membership in the Association
>
> 3.2.1. A legal entity (hereinafter referred to as the "Organization") wishing to join the Association must submit to the Board:
> - a written application for admission to the Association;
> - a copy of the decision of its governing body approving the application for membership;
> - information about its activities and cooperation with existing members of the Association.
>
> 3.2.2. Submission of an application for admission constitutes agreement with the provisions of this by-laws and other documents of the Association, and acceptance of the responsibilities of membership
> as defined herein.
>
> 3.2.3. If the Organization meets the requirements of Articles 3.1 and 3.2 of these by-laws, the Board refers the application for review at the next General Meeting.
>
> 3.2.4. If the Organization fails to provide the required documents or is, by its legal nature, ineligible for membership, the Board may reject the application and notify the Organization. This decision does not deprive the Organization of the right to reapply.

While the Petitioner's company, [redacted] is a member of the EVAU, the record does not show that he is a member. Nor do the EVAU's bylaws demonstrate that the organization requires outstanding achievements of its members, as judged by recognized national or international experts. Accordingly, the Petitioner has not demonstrated that he satisfies this criterion.

3. 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. Such evidence shall include the title, date, and author of the material, and any necessary translation."

[2] The letter states that the EVAU "unites private legal entities, including nonprofit organizations with legal entity status, that are engaged in the development of the electric vehicle market in Ukraine."

The Petitioner offered online articles in Bigkyiv.com, TSN.ua, 5.ua, Elektrovesti.net, Evbuildersguide.com, Topgir.com, Religion.in.ua, Glavcom.ua, Reddit.com, Hevcars.com, Sema.org, Autocentre.ua, Focus.ua, Autogeek.com, Auto24tv.ua, Insideevs.com, Hemmings.com, Telegraf.com, Mashyna.com, Ampercar.com, Nevsedoma.com, Autoportal.ua, Autodream, Driveonline.com, Autogid.pro, Infocar.ua, Ua-news.in.ua, Sobytiya.com, Motortopia.com, Auto.24tv.ua, Informator.ua, Instagram.com/wealth, Teslarati.com, Cleantechnica.com, and Auto.hindustantimes.com. Many of these articles are not about the Petitioner.[3] The language of this criterion, however, requires "[p]ublished material about the alien." *See, e.g., Negro-Plumpe v. Okin*, No. 2:07-CV-820-ECR-RJJ, 2008 WL 10697512, at *3 (D. Nev. Sept. 9, 2008) (upholding a finding that articles regarding a show are not about the actor). Further, multiple articles do not identify the author required by this criterion.[4] *See Javakhadze v. Mayorkas*, No. 3:21-CV-00617-E, 2023 WL 8037730, at *6 (N.D. Tex. Nov. 20, 2023) (upholding articles did not contain the required authors).

Nor has the Petitioner shown that the above online publications rise to the level of major media trade publications or other major media.[5] The record included screenshots from SimilarWeb regarding website traffic for the online publications' websites. For example, the SimilarWeb "Traffic & Engagement" information for Evbuildersguide.com listed "Total Visits" from May 2025 - July 2025 at "16,153," a "Global rank" of "3,123,334," and a "Country rank" of "1,078,583." Likewise, SimilarWeb "Traffic & Engagement" information for Topgir.com listed "Total Visits" from May 2025 - July 2025 at "288,661," a "Global rank" of "421,579," a "Country rank" of "5,344," and an "Industry rank" of "5,511." The Petitioner, however, did not establish the significance of these statistics, showing that the aforementioned publications represent major trade publications or other major media.[6] *See Branski v. Seng*, No. 24-CV-360, 2024 WL 4678939, at *5 (E.D. Wis. Nov. 4, 2024) (indicating that the failure to provide context to circulation figures makes it difficult to assess their significance).

In addition, the Petitioner submitted material indicating that he was interviewed as part of programming for a Channel 5 news story (entitled '[redacted], for an ICTV program (entitled [redacted] and for a 2+2 program (entitled [redacted]), but he has not shown that the coverage was about him and that the programs featuring him qualified as major media. For example, information from "Social Blade" ranks Channel 5 as "5,284th" in "Views" and "302nd" in "News," ICTV as "4,630th" in "Views" and "280th" in "News," and 2+2 as "52,943rd" in "Views" and "529th" in "News," but the Petitioner has not demonstrated the significance of these statistics.

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[3] For example, the article in 5.ua, entitled "Tesla Gigafactory in Germany: What attracts investors and will Musk reach Ukraine?" is not about the Petitioner. Instead, the article is about Tesla's presence in Ukraine.

[4] For instance, the article in Hevcars.com does not identify the author.

[5] The Petitioner has not demonstrated that the submitted online articles are in professional publications. Section 101(a)(32) of the Act states that "[t]he term "profession" shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Moreover, the regulation at 8 C.F.R. § 204.5(k)(2) provides that "'profession' means one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry in the occupation." In evaluating whether a submitted publication is a professional publication, a relevant factor includes the intended audience. *See generally 6 USCIS Policy Manual, supra*, at F.2(B)(1). Because the Petitioner did not demonstrate the online publications' intended audience meets the definition of "profession" as defined in the law and regulations, he did not establish the publications qualify as professional ones.

[6] In evaluating whether a submitted publication is a major trade publication or major media, relevant factors include the relative circulation, readership, or viewership. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1).

Given the above, the Petitioner has not established that he meets this criterion.

4. Participation as a Judge

The regulation at 8 C.F.R. § 204.5(h)(3)(iv) requires "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 specialization for which classification is sought."

The Petitioner claimed eligibility under this criterion based on having served as a judge for the [redacted] Energy Fest Tuning Contest (2021). With respect to this car festival, he provided photographs posted on social media, YouTube video screen shots, drag race rules, blank score sheets, information about other judges, and promotional information for the event, but these materials do not show the Petitioner's participation as a judge. For example, he is not specifically identified as a judge in any of the submitted evidence. The Petitioner also presented an article in Hevcars.com discussing the [redacted] Energy Fest event, but the material did not mention his participation as judge. He therefore has not demonstrated that he meets this criterion.

5. Display

The regulation at 8 C.F.R. § 204.5(h)(3)(vii) requires "[e]vidence of the display of the alien's work in the field at artistic exhibitions or showcases."

The Petitioner provided documentation that vehicles he designed were on display at the [redacted] car show and the [redacted] car show. Accordingly, we conclude that he meets this criterion.

6. Role

The regulation 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."

To qualify under this criterion, a petitioner must show that they performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. For a leading role, USCIS looks at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof.[7] A title, with appropriate matching duties, can help to establish that a role is (or was), in fact, leading.[8] For a critical role, USCIS looks at whether the evidence establishes that the person has contributed in a way that is 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.[9] A petitioner must also demonstrate that the organization or establishment, or the department or division for which they hold or held a leading or critical role, has a distinguished reputation.[10] Merriam-Webster's online dictionary defines

[7] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).
[8] *Id.*
[9] *Id.*
[10] *Id.*

"distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person."[11]

The Petitioner contends on appeal that he meets this criterion based on his roles for [redacted] (California), and [redacted] We agree with the Petitioner that he has performed in a leading or critical role for [redacted] and [redacted], but he has not demonstrated a leading or critical role with [redacted]. Nor is the submitted documentation sufficient to demonstrate that these organizations have a distinguished reputation.

Regarding his role for [redacted] the Petitioner presented a letter of support from V-V-, General Manager of [redacted] stating:

> I was [the Petitioner's] supervisor during his tenure at [redacted] from 2008 to 2011. At the time, I served as the company's Area Sales Manager (ASM). [The Petitioner] joined the team as a Technical Sales Representative, and from the outset, he distinguished himself through his exceptional drive, professionalism, and ability to exceed expectations in both performance and customer engagement. Within just 1.5 years, he was promoted to the position of Key Account Manager.
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> . . . .
>
> As Key Account Manager, [the Petitioner] consistently surpassed all key performance indicators, including:
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> - Net Sales Growth: +38% year-over-year (2011) (versus the target average of 20%)
> - Number of Engaged Customers: 16 customers (versus the target average of 12 per territory)
> - Number of Active Sales Channels: direct sales, customer service, including every day onsite demos of tools, close cooperation with field engineers.
> - Customer Visits per Day: 12.7 on average every day (versus the target average of 10)

While the Petitioner performed admirably as both a Key Account Manager and Technical Sales Representative, the letter from V-V- does not indicate that the Petitioner's role required him to manage or lead others. Nor did V-V-'s letter discuss the Petitioner's position in the context of [redacted] overall organizational hierarchy or otherwise indicate that he served in a leading role for the company. In addition, while V-V- stated that the Petitioner surpassed his key job performance indicators, V-V- did not elaborate on how the Petitioner's work was of significant importance to the outcome of the company's activities. Further, V-V- did not explain how the Petitioner's role was critical to [redacted] success relative to the contributions made by other sales staff, company managers, and executives. Accordingly, the Petitioner has not shown that he performed in a leading or critical role for the company.

[11] *Id.*

With respect to the reputation of [redacted] the Petitioner provided information about the reputation of its parent company, [redacted], but this information did not show that its Ukrainian subsidiary for which the Petitioner served had a distinguished reputation. The Petitioner also presented material from [redacted] website, but this information is insufficient to show that the company has a distinguished reputation. *See Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *5 (S.D.N.Y. Mar. 21, 2023) (finding self-promotional material from the organization did not establish a sufficiently high reputation).

Regarding the reputation of [redacted] and [redacted], the Petitioner presented company promotional material, social media posts, screenshots of video footage, and various media articles mentioning both companies. He also presented documents showing that [redacted] received two [redacted] (the first and second editions of the contest in 2019 and 2020), but he has not sufficiently demonstrated the significance of these awards. In addition, the Petitioner provided documentation showing that [redacted] is a member of the EVAU, but he has not demonstrated that such membership is indicative of a distinguished reputation. While the submitted materials show that [redacted] and [redacted] are successful businesses that have gained some degree of media exposure, the evidence is not sufficient to demonstrate that the companies have a distinguished reputation. *See Branski*, 2024 WL 4678939, at *8 (finding successful businesses can be expected to have satisfied customers and garnered the positive esteem of peers, but it takes more to have a distinguished reputation).

For the above reasons, the Petitioner has not established that he meets this criterion.

Summary

The Petitioner meets the artistic display criterion, but he has not established he satisfies the criteria relating to awards, memberships, published material, judging, and leading or critical role. He also asserts that he meets a seventh evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(v), relating to original contributions of major significance in the field. But as the Petitioner cannot fulfill the initial evidentiary requirement by meeting at least three criteria under 8 C.F.R. § 204.5(h)(3), the identified bases for denial discussed above are dispositive of the appeal. We therefore reserve the issue of whether the Petitioner meets the original contributions criterion. *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). *See also Kinuthia v. Biden*, 702 F. Supp. 3d 5, 11 (D. Mass. 2023), *aff'd sub nom. Kinuthia v. Trump*, No. 23-2029, 2025 WL 3491324 (1st Cir. Aug. 12, 2025) (declining to consider a criterion when the plaintiff cannot satisfy at least three).

B. O-1 Nonimmigrant Status

The record reflects that in 2022 the Petitioner received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Petitioner, this approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard – statute, regulations, and case law. Many Form I-140 immigrant petitions are denied after USCIS approves nonimmigrant petitions. *See, e.g., Sunlift Int'l, Inc. v. Mayorkas*, No. 20-CV-08869-JCS, 2021 WL 3111627, at *11 (N.D. Cal. July 22, 2021); *Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA*

US v. US Dept. of Justice, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. at 1108, *aff'd*, 905 F. 2d at 41. Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. *See, e.g., La. Philharmonic Orchestra v. INS*, 248 F.3d 1139 (5th Cir. 2001) (per curiam). Nor are we required to approve applications or petitions where eligibility has not been demonstrated merely because of prior approvals that may have been erroneous. *See Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm'r 1988); *see also Constr. & Design Co. v. Bureau of Citizenship & Immigr. Servs.*, 2008 WL 2074097 *5 (N.D. Ill. May 14, 2008) (describing as "prudent" that the AAO "assess each application on its own, rather than rubber stamping applications merely because of prior approvals"), *aff'd sub nom. Constr. & Design Co. v. U.S. Citizenship & Immigr. Servs.*, 563 F.3d 593 (7th Cir. 2009).

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show their achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Because the Petitioner has not satisfied the threshold "initial evidence" requirement of fulfilling three criteria under 8 C.F.R. § 204.5(h)(3), we cannot conclude that he is 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) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we also decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25.

Nevertheless, we have reviewed the record in the aggregate, concluding it does not support a determination that the Petitioner has established the 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 those progressing toward the top. *Matter of Price*, 20 I&N Dec. 953, 954-55 (Assoc. Comm'r) (USCIS has long held that event athletes performing at the major league level do not automatically meet the statutory standards for classification as an alien of extraordinary ability); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design,"); *Hamal v. Dep't of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"). *See also Hamal v. Dep't of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian,* 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach). Here, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or 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. Moreover, the record does not otherwise demonstrate the Petitioner has garnered national or international acclaim in the field, and 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 and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated eligibility as an individual 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.