U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42094096

Date: JUN. 04, 2026

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

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

The Petitioner, an industrial engineer, seeks classification as an alien of extraordinary ability. *See* section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 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 the Petitioner had not established he had a major, internationally recognized award, or that he met at least three of the ten regulatory criteria to establish the initial evidentiary requirements for the 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

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens with extraordinary ability if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry will substantially benefit the United States prospectively. 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 of the evidence to determine whether a petitioner has sustained national or international acclaim and whether their achievements have been recognized in the field. First, a petitioner can provide evidence of either "a

major, international recognized award," or satisfaction of at least three of ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3).[1]

Where a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) then considers the totality of the material provided in a final merits determination and assesses 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-step 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); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual (providing, as guidance, USCIS' two-step extraordinary ability analysis).

II. ANALYSIS

A. Relevant Background and Procedural History

The Petitioner claims that his extraordinary ability is in engineering, renewable energy innovation, and environmental sustainability. In the underlying record he provided numerous personal statements, each dated May 2025. Within the statements, he explained he holds a degree in "electric drive technology from one of Ukraine's top technical institutions" and in 1989 founded [redacted] a "complex construction and energy infrastructure projects company."[2] He stated that he has developed the next-generation [redacted] for cost effective, stable, and sustainable power generation and submitted a copy of the patent for the invention, which was filed in Ukraine in 2020. The Petitioner also submitted a receipt that he filed an application with the U.S. Patent and Trademark Office in May 2025 for a [redacted]

The Petitioner did not indicate or establish that he received a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3). He must therefore satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the initial requirements of the classification.

B. Criteria Waived

The Petitioner did not claim in the underlying record or on appeal that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iv), (vi), (vii), or (x), which require that he submit documentation of his membership in associations that require outstanding achievements of its members, his participation as a judge of the work of others, his authorship of scholarly articles in the field, the display of his work

[1] The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she 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. The Petitioner has not submitted comparable material.

[2] The record includes two articles about the Petitioner, discussed in more detail herein, one of which states that the Petitioner holds a bachelor's degree in "science and electrical engineering from the [redacted] in Ukraine" and a "master's degree in science and electrical engineering from the [redacted] However, the Petitioner did not provide documentation of his academic record to corroborate his educational background.

at artistic exhibitions or showcases, or of his commercial successes in the preforming arts. We therefore deem his eligibility under these five criteria waived. *See Matter of Pongatchev,* 28 I&N Dec. 719, 729 (BIA 2023) (concluding issues that are not meaningfully appealed are waived); *see also Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) which concluded an issue not raised on appeal is deemed waived.)

C. Criteria Withdrawn

USCIS determined the Petitioner demonstrated 8 C.F.R. § 204.5(h)(3)(i) and (viii), which requires evidence he received lesser nationally or internationally recognized prizes or awards, and held a leading or critical role for a distinguished organization or establishment. We disagree and for the reasons discussed below, we withdraw USCIS' determination with respect to these two criteria.

1. Lesser Nationally or Internationally Recognized Prizes or Awards

In order for the Petitioner to meet the criterion at 8 C.F.R. § 204.5(h)(3)(i), he must establish that he has received lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The Petitioner submitted a 2013 "'Public Recognition' Diploma for Patriotism and Dedication" and a 2000 award for "Courage in an Emergency," both issued by ministers of the Ukrainian government.[3]

The Petitioner has not demonstrated the awards are nationally or internationally recognized. The Petitioner provided laws evidencing that the awards were issued by the Ukrainian government. However, a national government agency's issuance of an award does not alone establish a prize's national recognition. *See generally Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021) ("[A]s reflected in the regulation's plain text, the focus is on the *award*, not the awarding organization.") (emphasis in original). The Petitioner must show how others beyond the Ukrainian government ministry viewed his award. *See Visinscaia v. Beers*, 4 F. Supp. 3d at 136 ("Without evidence of how a larger audience viewed Plaintiff's awards, there was no way for the agency to evaluate whether those awards were recognized widely enough to satisfy this criterion.") With respect to the 2013 "Public Recognition" award, the Petitioner submitted three 2012 articles from an online publication titled *Agrarian Week Ukraine* in support of its national recognition. However, the articles do not speak specifically to the Petitioner's award but rather discusses the "Public Recognition" category of awards. The articles also do not provide information on whether the awards are widely recognized, and the Petitioner did not explain how, or provide evidence supporting, coverage by the publication *Agrarian Week Ukraine* amounts to national or international recognition.

With respect to the national recognition of the "Courage in an Emergency" award, the Petitioner referred to an article from 2025, titled "State Awards of Ukraine for Civil Servants," and claims the

[3] The Petitioner initially submitted a "Letter of Acknowledgement" dated 2002 from a minister of Ukraine and an award by the city's mayor dated 2000. USCIS' request for evidence (RFE) found the Petitioner did not sufficiently demonstrate that the letter of acknowledgement was an award, rather than a recognition of his participation. In the RFE, USCIS also determined the Petitioner had not demonstrated that the mayor's award was a lesser nationally or internationally recognized prize or award. In his response to the RFE, the Petitioner conceded that these two items of recognition did not meet the plain language of the criterion and withdrew them from consideration for this criterion but asked that they be considered in a final merits analysis.

article describes the "Courage in an Emergency" award as a major distinction for heroism and civil protection. However, he only submitted an abstract of the article, which does not reference the "Courage in an Emergency" award and describes itself as a comprehensive study of whether the state awards are legal. The Petitioner has therefore not met his burden to establish the awards are national or internationally recognized.

Second, the evidence does not demonstrate that the awards, which provide that they are for "patriotism and dedication" and "courage in an emergency," are for excellence in the Petitioner's field of endeavor, which he claimed is engineering with a focus on "renewable energy innovation and environmental sustainability." In support of the awards being in the field of endeavor, the Petitioner highlighted that one of the ministers that conferred the "Public Recognition" award was "Vice President of the Ukrainian Union of [redacted] and the minister that conferred the "Courage in an Emergency" award was from the "Ministry of Ukraine for Emergencies and Protection of the Population from the [redacted] However, the Petitioner did not explain why he received the award, or provide information on the award selection process. Without more, the title of the minister conferring the award does not in and of itself establish that the awards relate to the Petitioner's field of endeavor. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1) (providing, as guidance, relevant considerations for establishing whether the basis for granting the award was excellence in the field includes providing the criteria used to grant the awards, the national or international significance of the awards in the field, and limitations on competitors).

Even if the Petitioner had established his awards relate to his field of endeavor, he did not demonstrate the awards are for excellence. For example, the above referenced articles from *Agrarian Week Ukraine* provide context for the "Public Recognition" awards, explaining they are awarded to multiple recipients and are given to Ukrainians in various fields who have "become better and more successful in the field of activity in which they work." Similarly, the Petitioner provided printouts of Ukrainian laws explaining the purpose of the state awards is to recognize the "outstanding services in the development of the economy, science, culture, social sphere, defense of the fatherland, protection of constitutional rights, and human freedoms, state building and public activity and for other services for Ukraine." As a result, the Petitioner's evidence did not demonstrate that the awards are for excellence, rather than for becoming better in a particular field and for public service. Consequently, the Petitioner has not established this criterion.

2. Leading or Critical Role

To meet the criterion at 8 C.F.R. § 204.5(h)(3)(viii), the Petitioner must demonstrate he has performed in a leading or critical role for organizations or establishments, or a division or department of an organization or establishment, that have a distinguished reputation. Distinguished is defined as "marked by eminence, distinction, or excellence" or "befitting an eminent person." *See* Distinguished, Merriam-Webster.com, www.merriam-webster.com.

The Petitioner submitted documents demonstrating that as of 2024, he became the chief technology officer of [redacted]. In support of the company's distinguished nature, he provided it's certificate of organization, evidence of its employer identification number, printouts from the company's webpage, a partnership agreement with [redacted] and printouts from

[redacted] webpage. The [redacted] website printouts discuss the company's vision, purpose, and mission and provides biographies of its four employees. However, the Petitioner does not explain how this information demonstrates the distinguished nature of the company. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1) (providing, as guidance, size, longevity, scale of its customer base, and relevant media coverage are some relevant factors to consider in determining whether a distinguished reputation exists). Nor does the Petitioner explain how its partnership with [redacted] is relevant to demonstrating the [redacted] distinguished reputation. The Petitioner also provided a letter by a private investor in the company and a transaction sheet showing $225,000 in investments in the company from June 2024 to February 2025. However, the evidence does not identify where the investments came from and does not demonstrate that such funding is commensurate with eminent status for a company within its industry. *See id.* (providing, as guidance, that we may consider evidence that the business has received significant funding from government entities, venture capital funds, angel investors, or other such funders commensurate with funding rounds generally achieved for that startup's stage and industry, as a positive factor regarding its distinguished reputation).

The Petitioner also submitted documents showing his ownership of the company [redacted] In support of its distinguished reputation, the Petitioner refers us to a City Mayor's award, which the Petitioner received in 2000 for his "Highly Professional Skills in Performing Tasks on Liquidation of Emergency Situations at the [redacted]" However, the award was not given to the company to recognize its distinguished nature but was awarded to the Petitioner for his skills.

Because the Petitioner has not established the distinguished nature of the organizations or establishments, or a division or department of an organization or establishment, he has worked for, he has not met this criterion.

D. Remaining Evidentiary Criteria

1. Published Material in a Professional or Major Trade Publication or Medium

In order to meet 8 C.F.R. § 204.5(h)(3)(iii), the Petitioner must establish that material has been published about him and his work in the field for which classification is sought, and that the medium in which the material was published was a professional or major trade publication or other major media. In addition, 8 C.F.R. § 204.5(h)(3)(iii) plainly states that the evidence must include the title, date, and author of the material, and any necessary translation. USCIS determined the Petitioner did not submit articles that included the date and author of the material and that the printouts from Similarweb.com, providing information on the publications, were illegible. On appeal, the Petitioner argues USCIS overlooked that the submitted articles did include a date and author, and as a result he has met the requirements of the criterion.

The Petitioner submitted an article from VINnews.com that is dated [redacted] 2025 and authored by "Anonymous." At the end of the article, an author is listed. However, the Petitioner does not explain why the author would be listed as anonymous in one location and then later identified at the end of the article. The Petitioner also submits a different article, published a few days after the prior article, in midhudsonnews.com. The author is not listed at the beginning of the article but the author's name

appears at the end of the article.[4] We acknowledge that a majority of the content of each article describes the Petitioner's education and work history, and quotes his thoughts on sustainability measures, but the record is not clear why different articles would be published within a few days of each other by different publishers quoting the Petitioner. For example, the articles do not refer to current events and it is not clear what the purpose of the articles are, other than to discuss the Petitioner. As a result, the articles appear to be more aligned with marketing or promotional pieces, rather than published material about the person. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1) (providing, as guidance, that marketing materials, including those with seemingly objective content about the person in major print publications that are created for the purpose of selling the person's products or promoting the person's services, are not generally considered to be published material about the person).

Further, the Petitioner claimed that these online publishers are professional or major trade publications. In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience. *Id.* Here, for example, the Petitioner submitted readership information showing that the industry distribution for VINnews.com is 23% community and society, faith and belief; and 44% other; and midhudsonnews.com is 40% news and media and 37% other. The Petitioner has therefore not established that the publications are intended for professionals or individuals of a certain trade.

In addition, the Petitioner also has not demonstrated that either publisher is major media. Relevant factors to establish that the published material qualifies as other major media include the relative circulation, readership, or viewership. *Id.* The Petitioner submitted information from Similarweb.com for VINnews.com from October 2025 and for midhudsonnews.com from May 2025, even though the articles were published in [redacted] 2025. The information from Similarweb.com evidences that VINnews.com had total visits at 3.3 million, a global rank of 24,131, a country rank of 5,295, and an industry rank of 118. For midhudsonnews.com, the total visits were 491,019, a global rank of 119,317, a country rank of 23,241, and an industry rank of 7,168. However, because the Petitioner did not provide context for these figures, their significance has not been established such that we may conclude that either qualify as major media. For these reasons, the Petitioner has not established the criterion.

2. High Salary in Relation to Others in the Field

The criterion at 8 C.F.R. § 204.5(h)(3)(ix) requires the Petitioner demonstrate that he 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. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). 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. *Id.*

[4] A review of both publication sites evidences that other news stories list the author's name at the beginning of the article with either information about the author at the end or a link to information about the author in the beginning. The Petitioner's submissions do not contain information on the authors.

USCIS determined the Petitioner did not establish this criterion and the Petitioner did not contest this finding on appeal. We agree with USCIS' finding and adopt and affirm it with the following additional analysis.

The Petitioner submitted an "income report" for the years 2020-2023 for his salary as "Chief Electrical Engineer" for [redacted] which he self-certified for accuracy as the "director" of the company. The report consists of a table listing his salary as increasing from 74,000-80,000 Ukrainian hryvnia over this period. The Petitioner did not provide a breakdown of his salary for us to determine whether the salary is inclusive of other benefits and whether it also included compensation as director and owner of the company.

In addition, as comparative data, he provided the salary range for electrical engineers for an unlisted year for all of Ukraine and for all industries from paylab.com. However, broad descriptions that include multiple occupations or multiple industries may not provide an accurate comparison to others in the field. *Id.* The Petitioner has therefore not demonstrated that the wage information for an electrical engineer, averaging salary data from all industries and all experience levels is an appropriate basis of comparison to his wages at [redacted] to demonstrate he commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

Based on the above, the Petitioner has not demonstrated this criterion.

3. Reserved Criterion and Issue

USCIS also determined the Petitioner did not meet the criterion at 8 C.F.R. § 204.5(h)(3)(v), which requires evidence that he made original contributions of major significance in the field. As the Petitioner would be unable to establish that he meets at least three of the ten threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we reserve our analysis of this remaining criteria. *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).

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. 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 is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20 (discussing a two-step review, where if the required number of criteria are met by the documentation, then it is considered in the context of a final merits determination)*; 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.

III. CONCLUSION

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

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 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.