U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38182289

Date: JUN. 6, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a communication engineer, 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.

Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner satisfied at least three of the initial evidentiary criteria, as required, he did not show his sustained national or international acclaim and demonstrate he is among the small percentage at the very top of the field of endeavor. 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 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,
>
> (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. 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

Because the Petitioner has not claimed or established his receipt of 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). SCOPS determined the Petitioner met at least three of the claimed evidentiary criteria. However, the SCOPS concluded the Petitioner did not show he garnered sustained national or international acclaim and his achievements have been recognized in the field of endeavor, demonstrating he is one of that small percentage who has risen to the very top of the field. On appeal, we will review the totality of the evidence in the context of the final merits determination below.[1]

B. Final Merits Determination

As indicated above, we will evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim,[2] he is one of the small percentage at the very top of the field of endeavor, and his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze an individual's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of

[1] *See also generally* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policymanual.
[2] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(A)(1) (stating the definition of sustain is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time").

the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.[3] In this matter, we determine the Petitioner has not shown his eligibility.

The Petitioner has worked as a senior research engineer and supervisor at [redacted] in [redacted], China since 2017. In addition, the Petitioner earned a doctor of engineering from the [redacted] China in 2016 and previously received a bachelor of engineering from the same university in 2011. As discussed further below, the Petitioner conducted review work, made contributions, and authored material. However, in considering the totality of the evidence, the Petitioner has not demonstrated that his achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. 1990 U.S.C.C.A.N. 6710, 6739. Furthermore, the Petitioner has not shown that he has risen to that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704. Here, the Petitioner has not established that he enjoys a career that meets this very high standard. *See Amin v. Mayorkas*, 24 F.4th 383, 386-87 (5th Cir. 2002) (stating that the narrow definition reflects the stringency of the extraordinary ability standard).

Regarding the Petitioner's service as a judge of the work of others, an evaluation of the significance of his experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian,* 596 F. 3d at 1121-22.[4] The Petitioner's brief, however, does not discuss the relevance or significance of his judging involvement in the context of a final merits determination. Rather, the brief repeats his qualification for the evidentiary criteria in step one of the Kazarian analysis. Specifically, the Petitioner states that he "conducted at least 51 reviews for scholarly journals for lauded venues like [redacted] (Impact Factor = [redacted] Ranked [redacted] in Computer Security & Cryptography by Google Scholar)."

Here, the Petitioner did not establish that his approximate 50 judging instances contributed to a finding that he has a career of acclaimed work in the field or indicative of the required sustained national or international acclaim, including that 26 of the Petitioner's article reviews occurred in 2024 (less than 6 months of filing the petition) and 13 occurred in 2023 (approximately within 1 year of filing the petition). *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *10 (S.D.N.Y. Jan. 5, 2024) (finding the recency of the petitioner's judging events did not show a career of acclaimed work in the field).

Furthermore, the Petitioner did not demonstrate, for example, how his judging experience compares to others at the very top of the field or the significance of "conduct[ing] at least 51 reviews." Similarly,

[3] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (instructing that USCIS officers should consider the petition in its entirety to determine eligibility according to the standard – sustained national or international acclaim and the achievements have been recognized in the field of expertise, indicating that the person is one of that small percentage who has risen to the very top of the field of endeavor).

[4] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (providing that the second step requires USCIS to evaluate the person's judging participation to determine whether it was indicative of the person being of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

while he points out that one of the journals has a [ ] impact factor and a [ ] ranking in a category, the Petitioner did not show that performing some reviews for highly ranked journals represents his status as being among the very top of his field, nor are we persuaded that anybody who conducts reviews for more prestigious publications automatically reflects sustained national or international acclaim. Again, the Petitioner did not explain the relevance of his judging occurrences. *See Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801, at *2 (D.C. Cir. Jan. 31, 2023) (finding the petitioner did not provide needed context for his judging experience and the response to his work).

In addition, the Petitioner did not show, for instance, that he garnered wide attention from the field based on his journal paper reviews. Without evidence that sets the Petitioner apart from others in his field, such as evidence that he has a consistent history of reviewing or judging recognized, acclaimed experts in his field or that he serves in an editorial position for a highly ranked or prestigious journal, the Petitioner has not shown that his judging experience places him among that small percentage who has risen to the very top of the field of endeavor. *See Bhanu v. Garland*, No. 22-103, 2023 WL 6119357, at *9 (E.D. Pa. Sept. 18, 2023) (upholding the petitioner did not offer evidence of a consistent history of completing a substantial number of review requests relative to others, serving in editorial positions for distinguished journals or publications, or chairing technical committees for reputable conferences).

Likewise, authorship and publication do not automatically place one at the top of the field.[5] The record reflects the Petitioner presented evidence showing that he published 14 articles from 2016 – 2024 and 23 conference proceedings from 2014 - 2022. However, the Petitioner did not demonstrate that his publication record is consistent with having a career of acclaimed work, sustaining national or international acclaim, and being among the small percentage at the very top of his field. The Petitioner, for instance, did not show the significance of the number of his authorships or how his publication record compares to others who are viewed to be at the very top of the field. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (finding it reasonable for USCIS to focus on the fact that a publication record of six publications over seven years inconsistent with a career of acclaimed work and sustained national or international acclaim).

Regarding his overall citation record, the Petitioner initially provided evidence from Google Scholar (GS) reflecting 301 citations, with his highest cited articles receiving 129, 36, 24, and 22 citations, respectively. The Petitioner, however, did not specify how many citations were self-citations by him or his coauthors. Furthermore, the Petitioner submitted data from Clarivate Analytics (CA) regarding baseline citation rates and percentiles by year of publication for the engineering. The Petitioner claimed his citations from articles published in 2014 and 2020 ranked among the top [ ] However, the Petitioner did not indicate whether he factored in any self-citations in determining these percentile rankings. Moreover, the documentation from CA states that "[c]itation frequency is highly skewed, with many infrequently cited papers and relatively few highly cited papers. Consequently, citation rates should not be interpreted as representing the central tendency of the distribution." Further, he submitted data claiming to be derived from "OpenAlex" reflecting [ ] for "Citation Percentile" and [ ] for "Publication Percentile." Notwithstanding the evidence does not indicate the source

[5] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that the second step requires USCIS to evaluate the person's publications to determine whether it is indicative of being one of that small percentage who has risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

as "OpenAlex," the Petitioner did not show how "OpenAlex" calculates the percentile figures. Additionally, the Petitioner presented an article in *Scientometrics* written by Lutz Bornmann and Werner Marx, entitled "How to evaluate individual researchers working in the natural and life sciences meaningfully? A proposal of methods based on percentiles of citations." This article presents recommendations for "how to evaluate individual researchers in the natural and life sciences" for purposes of funding and promotion or hiring decisions. The authors state that "publications which are among the 10% most cited publications in their subject area are as a rule called highly cited or excellent" and that "the top 10% based excellence indicator" should be given "the highest weight when comparing the scientific performance of single researchers." While the authors offer proposed methods for bibliometric analysis of research performance, the record does not indicate that their methods have been accepted and implemented by the academic community. Moreover, with regard to citation information from Google Scholar, the authors advise against "using Google Scholar (GS) as a basis for bibliometric analysis. Several studies have pointed out that GS has numerous deficiencies for research evaluation."

Here, the Petitioner did not provide credible documentation establishing that his publication percentiles garnered sustained national or international acclaim. Even if we accepted his claims that his 53 citations for a 2014 article and 34 citations for a 2020 article qualifies him in the top [redacted] in engineering, which we do not, the Petitioner did not demonstrate that such rankings or citations place him among the very top of the field. *See Bhanu v. Garland*, No. 22-103, 2023 WL 6119357, at *9 (upholding the Petitioner did not show the significance of authorships reflecting that he is among the small percentage at the very top of the field).

In addition, the Petitioner argues that his work has "been cited by scholars in at least 35 countries in all inhabited continents," including "96%" from unaffiliated scholars. However, the Petitioner did not provide context for these claims. For instance, the Petitioner did not show that being cited by scholars from 35 countries represents a person who is among the small percentage at the very top of the field or somehow reflects sustained national or international acclaim. Likewise, the Petitioner did not establish the significance or relevance of being cited by unaffiliated scholars. In this case, the Petitioner did not demonstrate that he has distinguished himself from others in the field based on his international or geographic citations, gaining national or international attention.

Moreover, in support of his contributions the Petitioner offered evidence of receiving a [redacted] Award (third prize) and an [redacted] Award (first prize), his involvement in 11 Chinese patents and two copyright registration certificates, and the commercialization of two of his patents. Although the documentation indicates some recognition of his work and two companies in China have applied his patented technology, the Petitioner did not demonstrate the significance of this recognition, so as to show that he has garnered national or international acclaim. Likewise, the Petitioner provided evidence reflecting that his research has been funded by the [redacted] and [redacted] Again, the Petitioner did not submit needed context regarding the relevance of this funding. For instance, the Petitioner did not establish that these funding sources are exclusive, limit funding to those with distinguished reputations in the field, or otherwise reflect national or international acclaim and placing him among the small percentage at the very top of his field. *See Donskoy v. United States Citizenship & Immigr. Servs.*, No. 21-CV-04757-CRB, 2021 WL 5240224, at *6 (N.D. Cal. Nov. 11, 2021) (finding the Petitioner did not establish that he garnered

sustained national or international acclaim for his contributions and his achievements have been recognized).

Finally, the record reflects that the Petitioner provided around a half dozen recommendation and reference letters. However, the letters are not sufficiently persuasive. The letters generally highlight the Petitioner's work and indicate the authors' personal implementation of the Petitioner's work into their own work. Letters that make general and expansive statements regarding the beneficiary and the beneficiary's accomplishments are generally not persuasive. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(3). The letters do not claim, nor does the content show, that the Petitioner achieved national or international acclaim from the field. Moreover, the letters do not demonstrate that the Petitioner has attracted a level of attention placing him the very top of his field. In addition, the letters do not show that he has enjoyed a career of acclaimed work. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (finding testimonial letters were insufficient to establish his relative status in the field and do not compare him to others).

Here, the letters do not contain sufficient information and explanation to show that the Petitioner is viewed by the overall field, rather than by a solicited few, among the upper echelon or that he has garnered recognition on a national or international scale, consistent with being among the small percentage at the very top of the field of endeavor. *Mishra v. Richardson*, No. 120CV991LMBTCB, 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding that none of the plaintiff's letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim). Although the letters highlight the Petitioner's work, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding the submitted letters failed to establish the plaintiff's contributions resulted in significant acclaim).

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought.[6] Here, 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 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Amin v. Mayorkas*, 24 F.4th at 394 (stating that extraordinary ability is such an elite level of accomplishment); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that EB-1 visa are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, 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. *See* Section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that he is among the small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

[6] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his 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.