U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43242865

Date: JUN. 9, 2026

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

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

The Petitioner seeks classification as an alien of extraordinary ability in legal sciences/consultancy services. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

USCIS denied the petition, concluding the Petitioner did not satisfy at least three, as required, of the initial evidentiary criteria. In addition, USCIS found that the Petitioner did not demonstrate his intent to continue his work in his area of expertise in the United States. 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. U.S. Citizenship & Immigr. Servs.*, 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. U.S. Citizenship & Immigr. Servs.*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

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 under 8 C.F.R. § 204.5(h)(3)(i)-(x). USCIS determined the Petitioner did not meet any of the six claimed categories of evidence. On appeal, the Petitioner maintains that he fulfills six of them. Any ground of ineligibility that is not raised on appeal is waived. *See 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)).

A. 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 claims eligibility for this criterion based on "first place in the [redacted] (2024), conferred by the [redacted]. The Petitioner also submitted screenshots of articles posted on [redacted] announcing the first, second, and third place winners in various categories and indicating that "[t]he second edition of the '2024 [redacted]' which encourages and recognizes the work of the state's [redacted] took place on Friday, [redacted] during the [redacted] hosted by the [redacted]"

USCIS determines whether the award is a lesser nationally or internationally recognized prize or award which the person received for excellence in the field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. The Petitioner's evidence does not establish the field's national or international recognition of the awards. *See, e.g., 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*, 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). Furthermore, the Petitioner did not show how coverage of the award ceremony on two websites, one of which is the issuer of the award [redacted] signifies the field's recognition for excellence at the national or international level rather than at a Brazilian state level. *See, e.g., Negro-Plumpe v. Okin*, No. 2:07-CV-820-ECR-RJJ, 2008 WL 10697512, at *2 (D. Nev. Sept. 9, 2008) (upholding awards mentioned in a major German newspaper insufficient to establish the national or international recognition). In addition, the Petitioner did not show national or international recognition of the [redacted] award in the overall field outside of the Brazilian [redacted] *See, e.g., Sun v. Jaddou*, No. 3:24-CV-01466-E, 2025 WL 1556944, at *4 (N.D. Tex. June 2, 2025) (upholding that the plaintiff did not establish the award demands the wider industry, either nationally or internationally, takes notice of it).

The Petitioner also argues that that "the record includes multiple formal honors conferred by [redacted] and these formal honors demonstrate "additional institutional recognition reflecting sustained professional distinction." Although he provided evidence of Brazilian state, city, and municipality titles and orders, the Petitioner admits that "these honors are not relied upon independently to satisfy the regulatory standard." As such, we need not further consider them to determine the Petitioner's eligibility for this criterion. Further, an evaluation of the Petitioner's "sustained professional distinction" is more applicable in a final merits determination when an individual meets at least three regulatory criteria to 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. *Kazarian*, 596 F.3d at 1115.

Accordingly, the Petitioner did not establish he satisfies this criterion.

B. Published Materials

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." The Petitioner argues:

> The record contains multiple instances of independent media coverage of the Petitioner by established television programs and journalistic platforms with regional and national reach. This coverage includes, inter alia:
>
> - [redacted] a program dedicated to [redacted] featuring an in-depth interview addressing the Petitioner's [redacted] philosophy, procedural innovations, and nationally relevant [redacted]
> - [redacted] a multi-episode broadcast program with [redacted] in which the Petitioner was invited in his professional capacity to discuss [redacted] independence, [redacted] administrative efficiency, and [redacted]
> - [redacted], a major regional broadcast channel affiliated with a broader network, featuring the Petitioner in a segment addressing

- [redacted] in public-health and social-rights
- [redacted] a nationally accessible [redacted] platform, featuring a program discussing the Petitioner' s [redacted]

Evidence may include documentation such as print or online newspaper or magazine articles, popular or academic journal articles, books, textbooks, similar publications, or a transcript of professional or major audio or video coverage of the person and the person's work. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The Petitioner submitted English language transcriptions of video interviews from [redacted] (four episodes), [redacted], and [redacted]. However, the Petitioner did not submit the original language (Portuguese) transcriptions. Moreover, the Petitioner did not provide certified English language translations of those transcriptions. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit the original language transcriptions and properly certified English language translations of those transcriptions, we accord them no weight as we cannot determine whether they support his claims. Therefore, the Petitioner did not establish whether the material reflects published material about him relating to his work in the field.

Furthermore, the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "the title, date, and author of the material." However, the uncertified English language transcriptions do not include the dates and authors of the material. *See, e.g., Kumar v. Dir. of U.S. Citizenship & Immigr. Servs.*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024) (upholding plaintiff's evidence did not include the required title, date, or author); *see also 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).

Moreover, USCIS determines whether the publication qualifies as a professional publication, major trade publication, or major medium publication. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). In evaluating whether a submitted publication is a professional publication, major trade publication, or major medium, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media). *Id.* Although he asserts "that such content . . . reflects contemporary modes of professional and journalistic distribution," the Petitioner does not reference documentation to support his claims, nor did he establish how his evidence shows that [redacted] qualifies as a professional or major trade publication or other major medium. *See, e.g., Krasniqi*, 558 F. Supp. 3d at 185 (finding argument that internet-accessible outlets by their nature have a worldwide reach substantially undermines any reasonable interpretation of "major").

Finally, the Petitioner claims that "the regulation expressly permits the submission of comparable evidence where the nature of the field does not lend itself to the enumerated criteria." The regulation at 8 C.F.R. § 204.5(h)(4) states that "[i]f the above standards do not readily apply to the beneficiary's

occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility." When evaluating such comparable evidence, USCIS must consider whether the regulatory criteria are readily applicable to the person's occupation and, if not, whether the evidence provided is truly comparable to the criteria listed in that regulation. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Here, the Petitioner did not demonstrate his eligibility for the provisions of comparable evidence under 8 C.F.R. § 204.5(h)(4). Specifically, the Petitioner did not establish that the regulation at 8 C.F.R. § 204.5(h)(3)(iii) does not readily apply to his occupation as a [redacted]. *See, e.g., Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, at *5 (N.D. Tex. Nov. 29, 2022) (finding the failed to demonstrate that his occupation qualifies for the submission of comparable evidence); *see also Javakhadze*, 2023 WL 8037730, at *6 (finding plaintiff did not establish eligibility for comparable evidence because brief did not explain how or why the criterion did not apply to the plaintiff's occupation). The fact that the Petitioner provided material for this published material criterion, as well as other material not contested on appeal, indicates that this criterion does readily apply to his occupation; and therefore, the Petitioner did not show his eligibility through comparable evidence. Regardless, the Petitioner relies on the same uncertified English language transcriptions as comparable evidence, which has no weight in this proceeding.

For the reasons discussed above, the Petitioner did not show his eligibility for this criterion, including through the submission of comparable evidence.

C. Original Contributions

The regulation at 8 C.F.R. § 204.5(h)(3)(v) requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." Analysis under this criterion focuses on whether the person's original work constitutes major, significant contributions in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

On appeal, the Petitioner claims that "[t]he record establishes that [he] developed and implemented original procedural and [redacted]," and he "introduced structured mediation and [redacted] contexts." However, the Petitioner did not reference or identify any documentation in the record to support his assertions on appeal.[1] *See, e.g., MRC Energy Co. v. U.S. Citizenship & Immigr. Servs.*, No. 3:19-CV-2003-K, 2021 WL 1209188, at *6 (N.D. Tex. Mar. 31, 2021) (finding the plaintiff's burden to identify specific items in the record to support its position rather than expecting the court to sift through more than 300 pages of a record to find support for the argument). The Petitioner did not establish that he made original contributions of major significance in the areas of [redacted].

At initial filing, the Petitioner's cover letter and introductory summary of his evidence made no mention of his contributions in [redacted]. Instead, the Petitioner based his eligibility on [redacted] seized during environment enforcement operations in [redacted]." The Petitioner submitted [redacted], two articles posted on [redacted] reporting

[1] Similarly, the Petitioner made these same claims in his response cover letter to a request for evidence but did not offer documentation or identify evidence contained in the record to support those assertions.

on the [redacted] reflecting that '[redacted] establishes [redacted] of the precautionary measure of destruction or rendering useless of products, by-products or instruments used in the practice of environmental infractions within the scope of environmental inspection actions."

The Petitioner did not show how his initial claims relate to [redacted] nor does it appear that he continues to argue eligibility based on his initial claims. Regardless, the Petitioner did not establish that [redacted], Brazil represents a majorly significant contribution in his field of legal sciences/consultancy services. *See, e.g., Kinuthia v. Rosenberg*, No. CV 17-10255-LTS, 2018 WL 1243955, at *5 (D. Mass. Mar. 8, 2018), *aff'd sub nom., Kinuthia v. Velarde*, No. 18-1244, 2019 WL 11671989 (1st Cir. July 3, 2019), *cert. denied*, 140 S. Ct. 2643, 206 L. Ed. 2d 714 (2020) (upholding petitioner's authorship of a religious book did not relate to his field of engineering).

Even if it does relate, the Petitioner did not demonstrate the impact or influence in the overall field rather than to [redacted], Brazil. Although the two articles indicate some notice of [redacted] the Petitioner did not show that the limited news coverage represents a contribution of major significance in the field. *See, e.g., Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *20 (D. Neb. Sept. 12, 2025) (upholding that plaintiff did not submit evidence demonstrating the impact the work has made on the field as a whole); *Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *6 (N.D. Tex. June 17, 2025) (upholding plaintiff did not provide specific examples to show the major significance of his contributions in the field as a whole); *Bhanu v. Garland*, No. CV 22-103, 2023 WL 6119357, at *8 (E.D. Pa. Sept. 18, 2023) (finding USCIS did not introduce a novel evidentiary standard when it required that the petitioner show how his contributions influenced the field as a whole); *Sun*, 2025 WL 1556944, at *5 (upholding that the plaintiff did not provide specific evidence showing a major impact on the field as a whole).

Moreover, while the Petitioner asserted that [redacted] directly influenced [redacted] . . . [by] [redacted]' the Petitioner did not reference or identify evidence in the [redacted] to support that [redacted] resulted in the creation of a [redacted] Even if [redacted] had some influence in the creation of [redacted], the Petitioner did not establish the substantial influence or impact of the [redacted] Brazil. Again, the Petitioner did not show how [redacted] created at the [redacted] in Brazil constitutes a contribution of major significance in the overall field. *See, e.g., Nelson v. U.S. Citizenship & Immigr. Servs.*, No. CV 21-10334-LTS, 2022 WL 20583561, at *8 (D. Mass. June 15, 2022) (upholding evidence requires both an original contribution and its impact of the broader field); *Kinuthia v. Rosenberg*, 2018 WL 1243955, at *6, *aff'd*, 2019 WL 11671989, *cert. denied*, 140 S. Ct. 2643 (upholding petitioner's model has not been widely applied in the field or any impact beyond the local project).

For the reasons discussed above, the Petitioner did not establish that he fulfills this criterion.

D. 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 argues the comparable evidence provision, discussed under the published material criterion, and claims that "[t]he record reflects that

the Petitioner has maintained a consistent and recurring presence in professionally produced media platforms, including broadcast television programs, structured interview formats, and publicly [redacted]"

Again, the regulation at 8 C.F.R. § 204.5(h)(4) states that "[i]f the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility." However, the Petitioner does not argue that the regulation at 8 C.F.R. § 204.5(h)(3)(vii) does not readily apply to his occupation as a [redacted] nor does he provide or reference evidence to show its inapplicability. *See, e.g., Goncharov*, 2022 WL 17327304, at *5 (finding the failed to demonstrate that his occupation qualifies for the submission of comparable evidence); *see also Javakhadze*, 2023 WL 8037730, at *6 (finding plaintiff did not establish eligibility for comparable evidence because brief did not explain how or why the criterion did not apply to the plaintiff's occupation). Moreover, the Petitioner's broadcast television programs, structured interview formats, and publicly [redacted] have already been addressed under the published material criterion, including his failure to submit the original English language transcriptions with certified English language translations. In fact, the *USCIS Policy Manual* specifically permits professional or major audio or video coverage of the person and the person's work as qualifying media. *Id.* at F.2(B)(1). Therefore, we will not consider these claims as comparable evidence under the display criterion.

Accordingly, the Petitioner did not show he satisfies this criterion through the submission of comparable evidence.

III. CONCLUSION

The Petitioner did not establish eligibility for any of the categories of evidence discussed above. Although the Petitioner also claims qualification for the scholarly articles (8 C.F.R. § 204.5(h)(3)(vi)) and roles (8 C.F.R. § 204.5(h)(3)(viii)) criteria, we need not reach these grounds because the Petitioner cannot fulfill the initial evidentiary requirement of at least three under 8 C.F.R. § 204.5(h)(3). *See Kinuthia*, 702 F. Supp. 3d at 11, *aff'd*, 2025 WL 3491324, *cert. denied*, 140 S. Ct. 2643 (declining to consider a criterion when the plaintiff cannot satisfy at least three). Accordingly, we decline to reach and hereby reserve these issues. *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; *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.[2] *See Bagamasbad*, 429 U.S. at 25.

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

[2] We also decline to reach and hereby reserve the Petitioner's eligibility regarding his intent to continue to work in his area of expertise in the United States under section 203(b)(1)(A)(ii) of the Act.