U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43193767

Date: JUNE 12, 2026

Appeal of USCIS Decision

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

The Petitioner is a cybersecurity specialist who seeks classification as an alien 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.

U.S. Citizenship and Immigration Services (USCIS) denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Petitioner had received a major, internationally recognized award, nor did he demonstrate that eligibility when considering the totality of the evidence. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The alien enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The alien's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. The term "extraordinary ability" refers only to those 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* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739 (stating: "In short, admission under this category is to be reserved for that small percentage of individuals who have risen to the very top of their field of endeavor.").

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-step analysis. In the first step, a petitioner can demonstrate international recognition of his or her achievements in the field

through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria 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 move to the second step to 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, 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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022).

II. ANALYSIS

According to the Petitioner's curriculum vitae, he completed a Magister of Law at [redacted] in 2012, undertook three years in a criminology program, later transitioned toward information security in Canada, studied software engineering for one year in the United States, and is currently pursuing a software engineering program through an accredited online university. He is a cybersecurity specialist and senior penetration tester with roughly 15 years of experience progressing from early roles in his home country to more senior positions recently.

A. Evidentiary Criteria

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). Before SCOPS, the Petitioner claimed he met five of the regulatory criteria. SCOPS decided that the Petitioner satisfied three of the criteria relating to judging, the authorship of scholarly articles, and performing in a leading or critical role but that he had not satisfied the criteria associated with original contributions or a high salary or remuneration. On appeal, the Petitioner maintains that he meets the two additional criteria, but as he has satisfied at least three, it is unnecessary that we evaluate whether he has met two more criteria.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim and that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze the Petitioner'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 the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119–20); *also see generally* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policymanual (stating that in a final merits determination USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a

preponderance of the evidence the required high level of expertise of the immigrant classification). In this matter, we determine that the Petitioner has not documented his eligibility.

1. Appellate Claims that Two-step Process is not Authorized

The two-step adjudication process is an interpretive rule that does not violate the Administrative Procedure Act, nor is it a legislative rule. *Nagaiah v. Allen*, 784 F. Supp. 3d 798, 810 (E.D. Pa. 2025); *Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *12 (D. Neb. Sept. 12, 2025); *Etsy, Inc. v. Jaddou*, No. 4:22CV3022, 2023 WL 3689555, at *23 (D. Neb. May 25, 2023) (citing *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 96 (2015). This approach is rooted in an exhaustive historical review of the congressional record, the governing statutory language, and the comprehensive regulatory scheme intended to ensure only those at the very top of their field receive this classification. To date, no other federal court has offered an alternative framework that is similarly grounded in such a thorough analysis of the legislative and agency history.

That brings us to the Petitioner's claim that a single district court opinion established the two-step process is ultra vires (i.e., beyond USCIS' legal authority). But that opinion has no authority here. We are only bound to follow published case law from a U.S. court of appeals for sufficiently similar situations within the same circuit. *Matter of Anselmo,* 20 I&N Dec. 25, 31 (BIA 1989); *Matter of K-S-*, 20 I&N Dec. 715, 718 (BIA 1993). Cases before us that fall outside a U.S. court of appeals' jurisdiction carry no binding effect. *Matter of Anselmo,* 20 I&N Dec. at 31 (finding administrative appellate bodies "are not required to accept an adverse determination by one circuit court of appeals as binding throughout the United States").

U.S. district courts' opinions carry even less of a binding effect as we are not required to follow their published decisions, not even within the same district. *Matter of Duarte-Gonzalez*, 28 I&N Dec. 688, 690 n.2 (BIA 2023). Although we may consider a district judge's reasoning as a useful aid in our analysis, we are not required to follow it as a matter of law. *Matter of N-A-G-C-*, 29 I&N Dec. 662, 665 (BIA 2026) (citing *Matter of K-S-*, 20 I&N Dec. at 718); *see also Trump v. CASA, Inc.*, 606 U.S. 831, 852 (2025) (concluding that as a matter of law, a district court's findings "extends only to the suing plaintiff—as evidenced by the fact that only the plaintiff can enforce the judgment against the defendant," and if another person or entity wishes to restrict the defendant's actions, they must file their own suit).

But more than that, we do not agree with the district court's reasoning. The opinion the Petitioner references is *Mukherji v. Miller*, No. 4:24CV3170, 2026 WL 895708, at *6 (D. Neb. Jan. 28, 2026). There, the court noted that in 1995 the former Immigration and Naturalization Service proposed a two-step adjudicative process. The court also observed that the Office of Personnel Management's (OPM) docket showed that the 1995 notice of proposed rulemaking (NPRM) was classified as a substantive rule. Based on that classification of the entire NPRM, the court treated the two-step process as the sole reason the proposed rule was a substantive or legislative rule, and it did not evaluate whether the numerous other provisions within the proposed rule might have been the basis for OPM's classification.

On that understanding, the court concluded that the two-step adjudicative process constituted a legislative or substantive rule that could be implemented only through notice-and-comment

rulemaking under the Administrative Procedure Act. In doing so, the court did not fully engage with USCIS' stated rationale for adopting the two-step process, namely that a federal circuit court required it, and that using one approach within that circuit and a different approach elsewhere was not prudent or feasible. USCIS' implementing memorandum discussed the circuit court's decision in detail and expressly adopted that approach. USCIS respectfully submits that this explanation satisfies any obligation to articulate a rational basis for the policy change.

In addition, the *Mukherji* decision did not appear to address how that petitioner's satisfaction of the criteria in that case related to the method of adjudication. The court ordered approval of the petition without analyzing whether any favorable determinations made at step one had been reached under the prior approach in which USCIS did not conduct a qualitative sustained-acclaim analysis under each individual criterion. The five criteria the court found satisfied (awards, published material, judging, contributions, and leading or critical role) thus were not adjudicated in the manner the court seemed to contemplate reinstating. USCIS respectfully submits that this omission was not harmless, because it bears directly on whether the court's remedy accords with the adjudicative framework it preferred.

And about congressional intent, USCIS understands Congress to have intended that qualifying candidates for this immigration benefit be among those at the top of their field. The House Judiciary Committee explained: "In short, admission under this category is to be reserved for that small percentage of individuals who have risen to the very top of their field of endeavor." H.R. Rep. 101-723, 59 (Sept. 19, 1990), reprinted in 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739 (House Committee Report). *Mukherji*, however, understood the legislative history differently, stating that the Conference Report on the Senate bill that ultimately became law "says absolutely nothing" about a requirement that persons seeking priority-worker extraordinary ability classification be part of "that small percentage of individuals who have risen to the very top of their field" or any similar formulation. H.R. Conf. Rep. 101-955, 101st Cong., 2d Sess. (Oct. 26, 1990).

USCIS respectfully reads the legislative history differently. The "Senate Bill" material the court cited is from a Conference Report, while the "small percentage" language appears in a House Judiciary Committee Report. These documents serve different functions in the legislative process. When a conference report does not address a particular substantive issue, as is the case here, the committee reports that originally developed and explained the provision remain the most authoritative evidence of congressional intent. *See Zuber v. Allen*, 396 U.S. 168, 186 (1969) (noting that committee reports "represent the considered and collective understanding of those Congressmen involved in drafting and studying proposed legislation"); *Garcia v. United States*, 469 U.S. 70, 76 (1984) (explaining that "[i]n surveying legislative history we have repeatedly stated that the authoritative source for finding the Legislature's intent lies in the Committee Reports on the bill").

The House Judiciary Committee Report, H.R. Rep. 101-723, supplies the substantive explanation of Congress's intent for the Immigration Act of 1990's extraordinary-ability classification, including the "small percentage" formulation. As summarized by the Congressional Research Service, committee reports typically outline the need and purpose of legislation and may include statements of legislative intent to guide both the executive branch in implementation and the judiciary in interpretation. *See Committee Reports: Required Contents*, Congressional Research Service Products (Library of Congress) (Jan. 22, 2008).

By contrast, the Conference Report, H.R. Conf. Rep. 101-955, primarily reconciles differences between the House and Senate versions and describes how those differences were resolved. Its focus is on the compromise text rather than on restating all underlying policy judgments that were already addressed in the committee reports. A conference report is just the final, official version of a compromise bill that only lists the specific legal text and the formal steps the House and Senate must take to pass it. *Conference Reports and Joint Explanatory Statements*, CONGRESS.GOV (Jun. 11, 2015), https://www.congress.gov/crs-product/98-382. In that light, the Conference Report's silence on the "top of the field" requirement is most reasonably understood as reflecting acceptance, rather than rejection, of the House Judiciary Committee's previously articulated intent.

Accordingly, USCIS respectfully understands H.R. Rep. 101-723 to remain the controlling statement of congressional intent on this point. That understanding is reflected in 8 C.F.R. § 204.5(h)(2), which requires "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor."

Not only is the Petitioner incorrect in relying on this flawed analysis, but he also did not assert these claims in the proceedings before SCOPS and he may not advance them for the first time in his appeal. *Whitton v. Dixon*, No. 25–580, 2026 WL 1513270, at *2 (U.S. June 1, 2026) (declining to evaluate new claims, legal theories, or evidence that were not before the original deciding authority in the first instance); *Santana-Gonzalez v. Bondi*, 172 F.4th 736, 744 (9th Cir. 2026) (finding a filing party cannot raise new issues on appeal that it did not present to the lower trier of fact); *Matter of G-C-I-*, 29 I&N Dec. 176, 177 n.2 (BIA 2025) (citing *Matter of H-L-S-A-*, 28 I&N Dec. 228, 240 n.10 (BIA 2021) and noting that issues presented for the first time on appeal will not be addressed).

2. Final Merits Analysis

The Petitioner's appeal rests entirely on two arguments. First is that he meets two additional criteria, which we already indicated he satisfied the minimum of at least three meaning it is unnecessary that we address other criteria. Second, he claims the final merits determination process is unlawful. The Petitioner does not advance any argument in the alternative contesting the actual basis for SCOPS' denial: his failure to demonstrate his sustained national or international acclaim and that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation.

We consider that issue waived on appeal as he addressed it below but fails to do so now. When the denial decision contains a specific basis for the adverse decision, it is the Petitioner's responsibility to demonstrate in their appeal that SCOPS made a prejudicial error when it denied on that basis. The failure to make such a demonstration—as we have here—means the below decision on this topic will stand. And by not raising issues relating to a final merits totality analysis, the Petitioner has waived that topic in this appeal. *Matter of Garcia*, 28 I&N Dec. 693, 693 n.1 (BIA 2023) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) and finding issues that are not meaningfully challenged in the appeal are waived); *Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (finding when a filing party mentions an issue without developing an argument, the issue is deemed waived).

And the Petitioner cannot revive it by filing a motion on this decision as a filing party cannot cure their failure to preserve an argument in a previous stage of the same proceedings through a

post-adjudicative motion. *Philipp v. Stiftung Preussischer Kulturbesitz*, 77 F.4th 707, 709–10 (D.C. Cir. 2023); *United States v. Campbell*, 26 F.4th 860, 875–76 (11th Cir.), *cert. denied,* 143 S. Ct. 95, 214 L. Ed. 2d 19 (2022) (finding that unless it would result in a miscarriage of justice, in most cases an issue abandoned on appeal should still be dismissed in any subsequent motion without addressing the merits). Instead, if he wishes to raise those issues again, he should achieve that by filing a new petition.

The Petitioner's only arguments that might be construed as being directed at the actual basis for the decision come couched within his discourse calling a final merits determination unlawful when he asserts that USCIS acted in an arbitrary and capricious manner. He claims he "submitted substantial documentation of his excellence," discussing "most impressive letters of recommendation touting his high-level contributions in his field," and how he authored a few articles in his area. The Petitioner then states "[i]t is unclear why the reviewing officer determined that Petitioner did not meet the 'Excellent' level. There is no articulated standard, objective, or specific criteria upon which the Service can judge why he did not meet the standards."

What is unclear is from where the Petitioner introduces the concept of excellence or "the 'Excellent' level." The only statutory or regulatory mention of excellence is under the prizes or awards criterion and the requirement that any of those must be recognizing excellence in the field. *See* 8 C.F.R. § 204.5(h)(3)(i). This classification's standard is that he demonstrate his accomplishments establish he is extraordinary and that standard is conveyed through the statute as being "demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation" and through the regulation as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor."

So we do not agree with the Petitioner's statement that "the reviewing officer failed to articulate the required standard and the failure to meet that standard by the Petitioner." And while we may agree that the statute doesn't "say anything about an individual being required to stay indefinitely at the top of their field," we cannot ignore the requirement that he demonstrate his national or international acclaim has been sustained. Section 203(b)(1)(A)(i); 8 C.F.R. § 204.5(h)(3). And we do not agree with the Petitioner's implication that SCOPS required him to show that he has remained indefinitely at the top of the field simply through the established two-step process.

Because of the unusual fact pattern and the fact that the *Mukherji* court decision emerging a few days after SCOPS denied the petition appears to have preoccupied the Petitioner's efforts on appeal, we will still perform a final merits determination.

The Petitioner's achievements fall far short of meeting this classification's stringent requirements. With regard to the Petitioner's judging experience, the record does not clearly demonstrate that was judging the work of others in the same or an allied field when he performed peer review for a publication. The publication in question publishes research across a wide array of scientific disciplines and the letter he offered doesn't specify he reviewed manuscripts relating to cybersecurity or an allied field. Even so, he has not illustrated that a single instance of conducting peer review is the type of performance distinguishing him from others in the field—such as receiving and completing independent review requests from a significant number of journals or conferences, serving in an editorial capacity for a

distinguished journal, or chairing a technical committee for a reputable conference—we cannot determine that he is among that small percentage who has risen to the very top of the field of endeavor.

Nor is his publication record the type that might aid in qualifying for this restrictive immigrant classification. While one of the articles he authored appeared in a reputable resource, the vast majority of the remaining material appeared in two publications that have not earned an equally reputable standing. *See Jafarov v. USCIS*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (S.D.N.Y. Jan. 5, 2024) (finding it appropriate for USCIS to consider the publications' significance in the ultimate merits determination). And the Petitioner did not demonstrate that the low rate of citations to his work (between three and seven citations) depicts he is one who is among the small percentage at the top of the field and has sustained national or international acclaim, nor did he demonstrate "particular prestige or acclaim associated with publication in such journals." *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2); *see also Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *23 (upholding that minimal global citations from a petitioner's articles do not demonstrate acclaim in the field).

As it relates to his contributions to the field, SCOPS determined under the criterion in step one, despite the originality of some of the Petitioner's work, that he did not demonstrate that work has "been of such influence and importance, as to effect the field of cybersecurity as a whole." The Petitioner developed an AI-powered, cloud-based cybersecurity platform that streamlined security testing and he primarily supported his claims of how widely that impacted the field through letters, and lesser instances of recognition or commendations. His publication record does not reflect that his work has provoked widespread commentary or received broad notice from others working in the field based upon his total number of citations. Regarding the Petitioner's citation history as it pertains to the significance of his contributions to the field, SCOPS noted that "while a moderate amount of citations to the petitioner's work demonstrates awareness of the work and its value, not every researcher who performs moderately valuable research has inherently made a contribution of major significance to the field as a whole." We similarly conclude that the Petitioner has offered insufficient evidence to support the contention that his work has established widespread recognition or attention from others in the field.

While his work as a whole may be technically valuable, he has not shown objective indicators of field-wide impact such as substantial citations. Instead, the record shows primarily recent preprint publications and professional achievements that better align with a skilled practitioner, rather than evidence of "original contributions of major significance" under this classification's high standards.

Moving to his work for organizations with a distinguished reputation, while the Petitioner claims his role as a lieutenant in cybersecurity for the national police of his home country, there was no showing that this institution enjoys a distinguished reputation or how his role was leading or critical to it. Nor did he illustrate how his roles for two other entities were indicative of or consistent with sustained national acclaim or a level of expertise indicating that he is one of that small percentage who have risen to the very top of his field.

He did enjoy a qualifying performance for the company he founded and that entity enjoys a distinguished reputation in his field. But one instance of satisfying the criterion in step one does not necessarily show he has been able to sustain that level of acclaim. *Churyumov v. USCIS*, No. 2:18-CV-00841-RAJ, 2019 WL 5802041, at *3 (W.D. Wash. Nov. 7, 2019), *aff'd*, No. 2:18-CV-00841-RAJ, 2019 WL 5802041 (W.D. Wash. Nov. 7, 2019) (upholding that success of one business does not equate to national or

international acclaim). Other federal courts have also found that working in a leadership position for a recognized and famous company does not automatically show an alien has risen to the top of the field and has sustained acclaim. *Mishra v. Richardson*, No. 120CV991LMBTCB, 2021 WL 1566071, at *4 (E.D. Va. Apr. 20, 2021). "In determining whether the beneficiary has enjoyed 'sustained' national or international acclaim, the officer should consider that such acclaim must be maintained." *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(A)(1). According to *Black's Law Dictionary* (12th ed. 2024), the definition of sustain is "[t]o support or maintain, esp. over a long period . . . [or] [t]o persist in making (an effort) over a long period." The Petitioner's performance in their leading or critical roles should reflect their performance led to or illustrates sustained national or international acclaim. *Nagaiah*, 784 F. Supp. 3d at 820. This is not indicative of or consistent with sustained national acclaim or a level of expertise indicating that he is one of that small percentage who have risen to the very top of his field.

Regarding the Petitioner's compensation, he wasn't able to align his claims and evidence to satisfy the requirements in step one. While our reasoning on that issue might have differed somewhat from SCOPS' analysis in the denial, we would have come to the same conclusion. The Bureau of Labor Statistics comparative data the Petitioner submitted only accounted for an annual salary and it did not include bonuses or anything of value beyond the annual wage. But he presented an offer letter with an annual salary of $155,000 and combined that with a bonus. In a separate claim, he also presented his hourly wage and extrapolated that into an annual salary without any evidence that those contracted jobs resulted in full-time work, much less a salary at the annualized rate. It is from those examples that he claims place him among the top ten percent of earners in his field. First, a petitioner's salary in the top 10 percent of employees is oftentimes not so impressive as to place him at the very top of the field endeavor. *Jafarov v. USCIS*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9.

Second, even if we were to consider the contents of the offer letter to be a high salary, earning a high salary alone may not be sufficient to establish he is a singularly extraordinary alien. *See Hamal v. DHS*, No. 21-5160, 2023 WL 1156801, at *2 (D.C. Cir. Jan. 31, 2023); *Bodhankar v. USCIS*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding that the plaintiff's high salary was not so high as to indicate that he has risen to the very top of the field). And third, the data the Petitioner provided was not contextualized to the geographic area where his work would occur and nationwide statistics are not a proper comparison. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1) (repeatedly reflecting that comparative wage or remuneration data should not only be in their field, but also in the geographic area); *see also Berardo v. USCIS*, No. 3:19-CV-01796-SB, 2020 WL 6161459, at *6 (D. Or. Oct. 20, 2020) (citing to agency policy to conclude that "geographic differences are relevant to a determination of whether a salary is high in relation to others in the field"). The Petitioner has not provided information that would enable us to provide a proper determination of whether his salary is reflective "of that small percentage who have risen to the very top of the field of endeavor."

To summarize, the record does not show that the Petitioner's limited judging experience, modest and brief publication record, or cited contributions have influenced the cybersecurity field as a whole or elevated him into the small percentage at the very top of his field. His peer review activity is isolated and not clearly tied to cybersecurity, and his articles are largely published in outlets without particular prestige or significant citation impact. Apart from one qualifying role in his own company, his positions with other organizations do not demonstrate sustained national or international acclaim, and his compensation evidence is neither reliably calculated nor properly contextualized to establish that his earnings place him among the very top of practitioners in his field.

III. CONCLUSION

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 reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

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.