U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43236761

Date: JUN. 17, 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 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.

USCIS 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. U.S. Citizenship & Immigr. Servs.*, 596 F.3d 1115, 1119-20 (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, 1346 (W.D. Wash. 2011), *aff'd*, 683 F.3d 1030 (9th Cir. 2012).

II. ANALYSIS

In his "Autobiographical Statement," the Petitioner claims to be "an alien of extraordinary ability as an Information Security Analyst, Software Developer and Computer Network Architect."

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 met three of the six claimed categories of evidence. However, our de novo review of the record shows that the Petitioner does not fulfill any of the criteria discussed below.

A. Awards

USCIS determined that the Petitioner did not satisfy this criterion, and we agree with that determination. 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." 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. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to: the criteria used to grant the awards or prizes, the national or international significance of the awards or prizes in the field, the number of awardees or prize recipients, and limitations on competitors. *Id.*

The Petitioner maintains eligibility for this criterion based on "winner of the [redacted] in the category of 'Best Operational Business Transformation' at the [redacted] held in [redacted] 2019." Initially, the Petitioner provided screenshots from businessmir.kz of an article about the [redacted] 2019, indicating that "[a]lso as part of the event, the [redacted] 2019 ceremony took place," in which the Petitioner is listed among seven other winners in various categories. In addition, the Petitioner submitted a letter from D-K-, CEO of [redacted] who stated:

> In [redacted] 2019, [the Petitioner] had the honor of being invited as a speaker at the [redacted] 2019. During his presentation, he showcased our company's digital transformation efforts and highlighted the significant impact and benefits our work had brought to the community. [The Petitioner] demonstrated how we harnessed big data technologies to provide real-time data related to social statistics. As a result of his accomplishments, he was nominated in the category of "Best Operational Business Transformation."

In response to a request for evidence (RFE), the Petitioner offered screenshots from the event's website, indicating that [redacted] and screenshots from [redacted] website, summarizing the 2019 summit and listing the winners.

The Petitioner did not demonstrate how the evidence shows the national or international recognition of the award for excellence in the field. The Petitioner did not establish recognition of the award beyond the [redacted] 2019. *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). In addition, the Petitioner did not show how sparse coverage of an award on three websites, one of which is from the event, commands widespread major media attention, indicative of a nationally or internationally recognized award for excellence. *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); s*ee also Visinscaia*, 4 F. Supp. 3d at 136 (finding that without evidence reflecting how a larger audience viewed the plaintiff's awards, there was no way to evaluate whether those awards were recognized widely enough to satisfy the awards criterion). Without further evidence or information, the Petitioner did not show that his [redacted] qualifies as a nationally or internationally recognized award for excellence.

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

B. Memberships

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields."

The record reflects that the Petitioner did not claim eligibility for this criterion at initial filing.[1] In his RFE response, the Petitioner argued that his "three CCIE [Cisco Certified Internetwork Expert] certifications, when evaluated in totality with his extensive professional contributions and leadership roles, constitute comparable evidence of sustained national and international acclaim under 8 C.F.R. § 204.5(h)(4), demonstrating recognition that clearly extends far beyond any single organization and reflects broad industry acceptance of exceptional achievement in the field." USCIS acknowledged the Petitioner's receipt of CCIE and determined that the Petitioner did not meet this criterion, including through the submission of comparable evidence.

On appeal, the Petitioner claims that "[t]he record establishes that CCIE certification satisfies this requirement through a standardized, expert-administered evaluation process that objectively measures technical mastery." In addition, he references a previously submitted letter from S-I-, deputy chief technical officer at [redacted] who stated that "[t]he CCIE certification is widely regarded as the highest-level technical credential in network engineering" and "CCIE status is awarded only after candidates successfully complete rigorous hands-on laboratory examinations that test real-world engineering skills under complex and time-constrained conditions."

However, the Petitioner did not demonstrate how CCIE certification qualifies as a membership in an association pursuant to the requirements of this regulatory criterion. Again, the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that USCIS determines if the association for which the person claims present or past membership requires that members have outstanding achievements in the field as judged by recognized experts in that field). We consider the term "membership" using its ordinary, common meaning. *See, e.g.*, *Perrin v. United States*, 444 U.S. 37, 42 (1979) ("A fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning . . . ."). Here, the Petitioner possesses a "certification" or "credential" rather than a membership. Likewise, the Petitioner did not establish how CCIE qualifies as an "association" rather than as a type of certification. Although S-I- opined that the Petitioner's "achievement is exceptional because he holds three CCIE certifications across distinct technical domains," the Petitioner did not show that CCIE certification is tantamount to being a member in an association. *See, e.g., Victorov v. Barr*, No. CV 19-6948-GW-JPRX, 2020 WL 3213788, at *7 (C.D. Cal. Apr. 9, 2020) (upholding that while an association gives out a title, the purported honor does not make the recipient a member of an organization or any other association). Thus, we need not further consider whether CCIE certification requires outstanding achievements, as judged by recognized national or international experts.

[1] The Petitioner's initial cover letter indicated "8 CFR 204.5(h)(3)(ii): Evidence of petitioner's performance of a leading or critical role in distinguished organizations." Although he cited to 8 C.F.R. § 204.5(h)(3)(ii), which pertains to the membership criterion, the Petitioner referenced the language for the leading or critical role criterion (8 C.F.R. § 204.5(h)(3)(viii)). Based on the arguments under this section of his cover letter, the record reflects that he was contending his eligibility under the leading or critical role criterion and made no references to his memberships with associations that require outstanding requirements of their members.

Moreover, 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." Moreover, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) provides:

> This regulatory provision provides petitioners the opportunity to submit comparable evidence to establish the person's eligibility, if it is determined that the evidentiary criteria described in the regulations do not readily apply to the person's occupation. When evaluating such comparable evidence, officers 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.
>
> A general unsupported assertion that the listed evidentiary criterion does not readily apply to the petitioner's occupation is not probative. Similarly, general claims that USCIS should accept witness letters as comparable evidence are not persuasive. However, a statement from the petitioner can be sufficient to establish whether a criterion is readily applicable if that statement is detailed, specific, and credible.
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> Although officers do not consider comparable evidence where a particular criterion is readily applicable to the person's occupation, a criterion need not be entirely inapplicable to the person's occupation. Rather, the officer considers comparable evidence if the petitioner shows that a criterion is not easily applicable to the person's job or profession.

In order to establish eligibility through comparable evidence, the Petitioner must first show that the particular criterion does not readily apply to the occupation and demonstrate how the evidence is truly comparable to that criterion. In other words, the Petitioner must show that the membership criterion does not readily apply to an information security analyst, software developer, or computer network architect. As he did not make any such argument regarding the inapplicability of the criterion to his occupation, the Petitioner did not demonstrate his eligibility to submit comparable evidence for this criterion. *See, e.g., Zizi v. Cuccinelli*, No. 20-CV-07856-SVK, 2021 WL 2826713, at *8 (N.D. Cal. July 7, 2021) (holding that "it is Plaintiff's burden to demonstrate that the standards in [(h)(3)] did not readily apply to his occupation before USCIS is required to consider comparable evidence"); *Skokos v. United States Dep't of Homeland Sec.*, No. 209CV00193RLHPAL, 2010 WL 11538054, at *5 (D. Nev. Jan. 13, 2010), *aff'd sub nom. Skokos v. U.S. Dep't of Homeland Sec.*, 420 F. App'x 712 (9th Cir. 2011) (holding that "it is up to the petitioner to argue before the agency that he is entitled to the desired classification under § 204.5(h)(4) if he believes the standards set forth in § 204.5(h)(3) do not readily apply to him"); *Liu v. Mayorkas*, No. CV 20-704 (FYP), 2021 WL 5578672, at *8 (D.D.C. Nov. 30, 2021) (upholding plaintiff's obligation to demonstrate that 8 C.F.R. § 204.5(h)(4) was applicable to her case before her comparable evidence could be considered). Accordingly, we not further consider whether his CCIE certification qualifies as comparable evidence under the membership criterion.

For the reasons discussed above, the Petitioner did not show he fulfills this criterion, including through the submission of comparable evidence.

C. Published Materials

USCIS determined that the Petitioner fulfilled this criterion. However, for the reasons discussed below, we will withdraw that determination. The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation."

Initially, the Petitioner provided a YouTube screenshot claiming to be an interview of the Petitioner with [redacted] However, the screenshot is in a foreign language without the required English language translation. In addition, the Petitioner did not include the original language transcription of the interview along with a certified English language translation of the transcription. 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 a transcription of the interview, along with a properly certified English language translation, we accord the evidence no weight as we cannot determine whether it supports his claims.

Moreover, the evidence does not include the required date and author of the material. *See, e.g., 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); *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); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *4 (D. Neb. Mar. 10, 2025) (upholding petitioner did not provide sufficient evidence of the required title, date, and author of the material).

Further, the Petitioner did not offer evidence showing that [redacted] qualifies as a professional or major trade publication or other major medium. In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, 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). *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). *See also, e.g., Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885, at *10 (E.D.N.Y. Sept. 30, 2011) (finding the record contained "no evidence beyond the four corners of the articles" that the newspapers were major); *Kumar*, 2024 WL 1374794, at *5 (upholding the plaintiff did not submit sufficient evidence to establish the material qualified as professional or major trade publications or other major media); *Noroozi v. Napolitano*, 905 F. Supp. 2d 535, 545 (S.D.N.Y. 2012) (pointing out the petitioner "did nothing to establish that the publications in which these articles appeared had the requisite level of circulation").

The Petitioner also submitted: screenshots from dknews.kz regarding the [redacted] airport, in which the Petitioner is briefly quoted about usage of the [redacted] app; screenshots from mail.kz regarding Kazakhstani IT experts visiting the [redacted] screenshots from [redacted] in which the Petitioner is listed among two dozen who attended the event; a screenshot from ans.kz regarding cyber and digital security exhibition in which the Petitioner is briefly mentioned as being one of the representatives; screenshots from businessmir.kz, discussed under the awards criterion,

regarding the [redacted] 2019 in which the Petitioner is listed as one of the winners at the corresponding ceremony; and screenshots from ktk.kz regarding usage of [redacted] in which the Petitioner provides a quote about the app. However, none of the material reflects published material about the Petitioner relating to his work. Rather, the material shows reporting or coverage about various topics, such as an airport, an app, a visit, an exhibition, and a summit. Simply being listed among winners or attendees or providing background quotes for the topics of the articles do not reflect published material about the Petitioner relating to his work. *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) (finding it is not enough that the material merely relates to the applicant's work); *Javakhadze*, 2023 WL 8037730, at *6 (upholding USCIS' determination that the published materials discussed the outcomes of various competitions, mentioning the plaintiff in passing as it related to competition results); *Lapteva*, 2025 WL 815087, at *4 (finding the regulation and USCIS policy clearly intend for evidence under this criterion to say something substantive about the petitioner and her work); *Gadhave v. Thompson*, No. 3:21-CV-2938-D, 2023 WL 6931334, at *4 (N.D. Tex. Oct. 19, 2023) (upholding articles only citing, quoting, or referencing the beneficiary do not qualify as about him); *Joseph v. Dir. of Texas Serv. Ctr., United States Citizenship & Immigr. Servs.*, No. 24-40249, 2025 WL 458001, at *3 (5th Cir. Feb. 11, 2025) (upholding an article that included quotes from the petitioner, did "not make the article about" him).

In addition, the mail.kz, ans.kz, and businessmir.kz screenshots did not include the required authors. Moreover, the Petitioner did not provide any documentary evidence showing that mail.kz, ans.kz, businessmir.kz, and ktk.kz qualify as professional or major trade publications, or other major media. At the end of the dknews.kz screenshot, it states the "'DKnews.kz' is registered with the Ministry of Culture and Information of the Republic of Kazakhstan." However, the Petitioner did not establish how being registered with the government also equates to being a professional or major trade publication or other major medium. Without further information or documentation, such as intended audiences or circulation/viewership data, the Petitioner did not demonstrate the standing or status of DKnews.kz.

In the RFE response, the Petitioner provided an "About Us" screenshot from DKNews.kz claiming that "[t]he national economic publication 'Business Kazakhstan' currently has a weekly circulation of 11,000 copies." Notwithstanding that the kdnews.kz screenshot does not reflect published material about the Petitioner, as discussed above, the record does not indicate publication in *Business Kazakhstan* rather than posting on kdnews.kz. Thus, the Petitioner must show that the website, kdnews.kz, qualifies as a professional or major trade publication or other major medium rather than the printed publication of *Business Kazakhstan*. *See, e.g., Victorov*, 2020 WL 3213788, at *8 (upholding that submitted evidence concerned the printed publication rather than the online published article).

Furthermore, the Petitioner submitted screenshots from kazinform.kz regarding the malfunction and outage of the [redacted] app. Although the Petitioner provides numerous quotes about the outage, the article is not about him. Besides listing his job title and a picture of him being interviewed, the material does not discuss him and is not otherwise about him. *See, e.g., Branski v. Seng*, No. 24-CV-360, 2024 WL 4678939, at *5 (E.D. Wis. Nov. 4, 2024) (finding that photographs cannot be fairly characterized as being "about" the plaintiff); *Kinuthia*, 2018 WL 1243955, at *5, *aff'd*, 2019 WL 11671989, *cert.*

denied, 140 S. Ct. 2643 (finding it is not enough that the applicant is pictured or mentioned in the publication); *Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *4 (N.D. Tex. June 17, 2025) (upholding plaintiff's submission of an article quoting him about personal branding was not about him).

Moreover, the Petitioner did not show that kazinform.kz represents a professional or major trade publication or other major medium. Although the Petitioner provided screenshots about the Kazinform News Agency, including its receipt of the URKER 2021 National Award, the evidence makes no mention of kazinform.kz or indicates its standing as a professional or major trade publication or other major medium.

For the reasons discussed above, the Petitioner did not show his eligibility for this criterion. Accordingly, we withdraw USCIS' favorable determination.

D. Salary

USCIS determined that the Petitioner met this criterion. However, for the reasons discussed below, we will withdraw that determination. The regulation at 8 C.F.R. § 204.5(h)(3)(ix) requires "[e]vidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." USCIS determines whether the person's salary or remuneration is high relative to the compensation paid to others working in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

At initial filing, the Petitioner claimed that he "currently serves as a Software Development Engineer in [redacted] Washington," and he "receives a gross monthly salary of $19,583.32 USD." However, the Petitioner provided two earnings statements reflecting that he commands a rate of $79.33 per hour. The earnings statements do not support the Petitioner's assertion of receiving $19,583 per month. In fact, the record also contains the Petitioner's job offer letter from [redacted] which stated that "[y]our salary will be $165,000.00 annualized, payable in accordance with the Company's standard payroll practice and subject to applicable withholding taxes." In the RFE response, the Petitioner provided comparable salary data from ZipRecruiter and Indeed. In particular, ZipRecruiter indicates that "as of Jan 30, 2006, the average annual pay for a Software Engineer in [redacted] is $167,886 a year." Thus, the Petitioner commands a salary among the average of software engineers in [redacted] Washington area; he does not command a high salary among software engineers. *See, e.g., Lapteva*, 2025 WL 815087, at *6 (upholding that documentation reflecting an hourly wage only slightly above average did not show she was highly compensated).

We note that the Petitioner's [redacted] job offer letter does indicate that he is eligible for a $90,000 sign-on payment in prorated installments and another $70,000 sign-on payment after his one-year anniversary. In addition, the Petitioner is eligible for a restricted stock award of 1,300 shares of common stock, vested and converted over four years. His earnings statements show a sign-on bonus of $5,833.33. However, the Petitioner did not offer evidence showing that his sign-on bonuses or common stock shares are significantly high in relation to other sign-on bonuses or common stock shares of software development engineers. *See, e.g., Onaghise*, 2022 WL 4073344, at *7 (upholding petitioner did not provide information about what other compensation or renumeration, such as living allowances, stock options, incentives, or bonuses, in relation to what others have earned); *Kinuthia*,

2018 WL 1243955, at *6, *aff'd*, 2019 WL 11671989, *cert. denied*, 140 S. Ct. 2643 (upholding the petitioner's receipt of supplemental pay did not establish that his salary was high in relation to others in the field because the supplemental pay was reserved for those with "Engineering Related Classifications"). Moreover, the information from ZipRecruiter makes no mention of sign-on bonuses or stock shares. Although the information from Indeed indicates the "average . . . $5,000 cash bonus per year," the record does not show that the Petitioner receives a "cash bonus per year" rather than "sign-on payments."

In addition, in the RFE response, the Petitioner claimed that he "holds a 15% equity stake in [redacted] where he serves a Chief Technology Officer and is responsible for the design and development of the company core anti-fraud and financial-security platform" and his "equity interest currently represents a value of approximately $750,000." Although the Petitioner referenced a letter from K-O-, CEO of [redacted], the Petitioner did not provide any corroborating evidence to support the "15% equity stake" and "$750,000" value. Regardless, the Petitioner did not provide any comparable documents to show that he commands a significantly high remuneration in relation to other chief technology officers. *See, e.g., Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (S.D.N.Y. Jan. 5, 2024) (upholding the "record lacked sufficient 'comparable data' as to [petitioner's] compensation").

Because the Petitioner did not establish that he commanded a high salary or other significantly high remuneration for services in relation to others, we withdraw USCIS' favorable determination.

E. Comparable Evidence

Notwithstanding our comparable evidence discussion under the membership criterion, the Petitioner makes a separate comparable evidence argument and asserts:

> USCIS also rejected comparable evidence on the ground that the regulatory apply to the Petitioner's occupation. That reasoning misstates the relevant inquiry. The issue is not whether the criteria exist in theory, but whether they adequately capture how excellence is recognized in the field. Where they do not, USCIS is required to consider comparable evidence.

However, the Petitioner's assertions contradict the comparable evidence provisions under the regulation at 8 C.F.R. § 204.5(h)(4), which 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." The Petitioner did not show that the intent of the comparable evidence regulation is to "adequately capture how excellence is recognized in the field," nor did the Petitioner demonstrate that the purpose of meeting individual criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x) is to capture how excellence is recognized in the field. In fact, such "recognition" is decided in a final merits determination if the individual meets at least three regulatory criteria. In a final merits determination, we analyze an individual's accomplishments and weigh the totality of the evidence to determine sustained national or international acclaim,[2] he is one of the small percentage at the very

[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").

top of the field of endeavor, and his achievements have been recognized in the field through extensive documentation. *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.[3]

Again, the comparable evidence provision provides petitioners the opportunity to submit comparable evidence to establish the person's eligibility under the evidentiary criteria, if it is determined that they do not readily apply to the person's occupation. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). 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. *Id.*

Here, the Petitioner did not demonstrate or identify which criteria, if any, do not readily apply to his occupation in order for us to even consider his eligibility to submit comparable evidence. *See, e.g., Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, at *5 (N.D. Tex. Nov. 29, 2022) (finding because petitioner did not make a claim that his field does not have associations, he failed to demonstrate that his occupation qualifies for the submission of comparable evidence); *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); *Zizi*, 2021 WL 2826713, at *8 (holding that "it is Plaintiff's burden to demonstrate that the standards in [(h)(3)] did not readily apply to his occupation before USCIS is required to consider comparable evidence"); *Skokos*, 2010 WL 11538054, at *5, *aff'd*, 420 F. App'x 712 (holding that "it is up to the petitioner to argue before the agency that he is entitled to the desired classification under § 204.5(h)(4) if he believes the standards set forth in § 204.5(h)(3) do not readily apply to him"); *Liu*, 2021 WL 5578672, at *8 (upholding plaintiff's obligation to demonstrate that 8 C.F.R. § 204.5(h)(4) was applicable to her case before her comparable evidence could be considered).

Because the Petitioner did not establish which criteria do not readily apply to his occupation, we need not further consider his comparable evidence arguments.

III. CONCLUSION

The Petitioner did not establish eligibility for any of the categories of evidence discussed above. Although USCIS determined the Petitioner met the roles criterion under 8 C.F.R. § 204.5(h)(3)(viii) and the Petitioner contests the unfavorable decision regarding the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v), we need not review these determinations 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

[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).

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. *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.