U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43292197

Date: JUN. 17, 2026

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

Form I-129, Petition for a Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, an automation/repair and maintenance business, seeks to classify the Beneficiary as a robotics and welding specialist of extraordinary ability. This O-1 nonimmigrant visa classification is available to individuals with extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

USCIS denied the petition, concluding that the Petitioner did not show the Beneficiary satisfied at least three of eight possible forms of documentation. 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

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics that has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of science, education, business, or athletics" as "a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor." 8 C.F.R. § 214.2(o)(3)(ii).

Next, DHS regulations set forth alternative evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner may submit evidence either of "a major, internationally recognized award, such as a Nobel Prize," or of at least three of eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B). If the petitioner demonstrates a criterion

does not readily apply to the beneficiary's occupation, it may submit comparable evidence to establish eligibility. 8 C.F.R. § 214.2(o)(3)(iii)(C).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994) ("The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met.") Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence show sustained national or international acclaim such that the individual is among the small percentage at the very top of the field of endeavor. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).[1]

II. ANALYSIS

Because the Petitioner did not indicate or establish the Beneficiary has received a major, internationally recognized award, it must demonstrate the Beneficiary satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). USCIS determined the Beneficiary fulfilled only one (scholarly articles under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*6*)) of the four claimed categories of evidence.

A. Comparable Evidence

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(C) states that "[i]f the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility."[2] For comparable evidence to be considered, the petitioner must explain why a particular evidentiary criterion listed in the regulations is not readily applicable to the beneficiary's occupation, as well as why the submitted evidence is "comparable to that criterion."[3] A general unsupported assertion that the listed criterion does not readily apply to the beneficiary's occupation is not probative.[4]

The record reflects that the Petitioner did not claim eligibility for the provisions of comparable evidence at either initial filing or in response to the request for evidence (RFE). However, for the first time on appeal, counsel argues that the Beneficiary's "occupation cannot be evaluated under standards calibrated for academic or licensed professionals" and asserts that the evidence considered by USCIS under the particular criteria should have been considered as comparable evidence. However, the burden remains with the Petitioner to make such claims and demonstrate eligibility for the benefit. 8 C.F.R. § 103.2(b)(1); *see also Chawathe*, 25 I&N Dec. at 375-76.

Further, because the Petitioner makes comparable evidence eligibility claims for the first time on appeal and not previously before USCIS, we will not consider them in this appellate proceeding. Appellate bodies will not consider claims raised for the first time in an appeal. *Nat'l Rifle Ass'n of Am. v. Vullo*, 144 S.Ct. 1316, 1330 n.5 (May 30, 2024). Moreover, counsel did not corroborate his

[1] *See also generally* 2 *USCIS Policy Manual*, M.4(C)(2), https://www.uscis.gov/policymanual.
[2] *See also generally 2 USCIS Policy Manual*, *supra*, at M.4(C)(3).
[3] *Id.*
[4] *Id.*

assertions on appeal with supporting evidence, establishing that the Beneficiary's occupation does not readily apply to the particular criteria. Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g.*, *Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). Further, an inability to satisfy a regulatory criterion because the Beneficiary does not qualify for it does not necessarily mean that the criterion does not readily apply to the beneficiary's occupation.

Accordingly, the Petitioner did not demonstrate eligibility for the comparable evidence provision under 8 C.F.R. § 214.2(o)(3)(iii)(C).

B. Memberships

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*2*) 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." 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 the field.[5]

Initially, the Petitioner provided a certificate reflecting that the Beneficiary "has been admitted as an [redacted], joining an exclusive network of professionals and companies committed to excellence, innovation, and technological advancement in the welding sector." In addition, the Petitioner provided screenshots from [redacted] website showing an overview of the association and background information. Similarly, the Petitioner offered a document entitled, [redacted] The evidence, however, does not indicate the requirements for admission as an associate in [redacted] let alone reflecting associate membership requires outstanding achievements of its members, as judged by recognized national or international experts.

In the RFE response, the Petitioner provided a document entitled, "IIW – International Institute of Welding Qualification & Certification Systems for Personal." However, the document reflects "[guidance] for [an] organi[z]ation to be become an Authori[z]ed Nominated Body – ANB of the IIW International Authori[z]ation Board." Again, the Beneficiary's certificate indicates his associate membership with [redacted] and the Petitioner did not submit evidence of the Beneficiary's membership with the ANB or IIW. Although the previously submitted document regarding [redacted] indicates that [redacted] the Petitioner did not show that the Beneficiary's membership with IIW, nor did the Petitioner demonstrate how the evidence establishes that associate membership with [redacted] requires outstanding achievements of its members, as judged by recognized national or international experts.

Furthermore, the Petitioner submitted a screenshot from [redacted] website indicating that [redacted] continues to promote its International Welding Engineer Postgraduate course, now offering two international diplomas: the IWE – International Welding Engineer, awarded by the IIW . . ., and the EWE – European Welding Engineer, awarded by the EWF – European Welding Federation." However, the Petitioner did

[5] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2).

not establish how the Beneficiary's associate membership relates to [redacted] offering two international diplomas, let alone that [redacted] requires outstanding achievements of its members, as judged by recognized national or international experts.

Likewise, the Petitioner provided screenshots from creasp.org and infosolda.com.br reflecting a partnership between [redacted] "for the qualification of engineers and technologists." Once again, the Petitioner did not show how a partnership between [redacted] for the qualification of engineers and technologists demonstrates that [redacted] associate membership requires outstanding achievements of its members, as judged by recognized national or international experts.

The record remains absent of the associate membership requirements for [redacted], including whether [redacted] associate membership requires outstanding achievements and national or international experts judge such [redacted] associate membership. *Cf., Braga v. Poulos*, No. CV 06-5105 SJO FMOX, 2007 WL 9229758, at *5 (C.D. Cal. July 6, 2007), *aff'd*, 317 F. App'x 680 (9th Cir. 2009) (finding plaintiff did not show the memberships with organizations were limited to those who have outstanding achievements in the field); *Denisov v. Wiemann*, No. 3:04-CV-0529-N, 2006 WL 8437057, at *3 (N.D. Tex. Aug. 15, 2006) (finding the focus of this criterion is the membership requirements rather than the overall reputation of the association); *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 did not submit any evidence of an association requiring outstanding achievements of its members); *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 documentation did not reflect that membership requires outstanding achievements); *Mussarova v. Garland*, 562 F. Supp. 3d 837, 845 (C.D. Cal. 2022) (upholding record did not include evidence that the associations required outstanding achievements from their members); *Strategati, LLC v. Sessions*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at *5 (S.D. Cal. May 31, 2019) (upholding that plaintiff presented no evidence that any of the organizations require outstanding achievements as judged by recognized national or international experts); *Tapia v. Jaddou*, No. 8:23-CV-813-CEH-AAS, 2025 WL 2780815, at *3 (M.D. Fla Sept. 30, 2025) (upholding that documents simply showing membership do not address whether the organizations require outstanding achievements of their members and that membership eligibility is judged by experts in the field).

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

C. Contributions

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*) requires "[e]vidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field." Analysis under this criterion focuses on whether the beneficiary's original work constitutes major, significant contributions in the field.[6]

[6] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2).

Initially, the Petitioner submitted recommendation letters, praising the Beneficiary for his skills and abilities and his work at various organizations. For instance, C-M-D-S- commented that the Beneficiary "is a committed, honest, versatile, dynamic, and focused professional, with excellence in relationships and teamwork, and proven delivery of results." However, the Petitioner did not demonstrate how letters that show the Beneficiary's skills or abilities reflect original contributions of major significance in the field. *Cf., Skokos v. United States Dep't of Homeland Sec.*, No. 209CV00193RLHPAL, 2010 WL 11538054, at *4 (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 while a skilled professional in the field, there was no evidence to suggest the plaintiff's professional contributions are original or that they have been of major significance); *Soni v. United States*, No. CV 11-2431, 2016 WL 4154137, at *5 (D.N.J. Aug. 2, 2016) (finding plaintiff's evidence described his work for employer in general terms, such as vital, efficient, effective, outstanding, unique, extraordinary, critical, and leading without detailing how his work has been of major significance in the field).

Furthermore, the Petitioner did not establish how the Beneficiary's work influenced or impacted the overall field in a majorly significant manner rather than limited to the projects or organizations that employed him. For example, M-F-G- indicated that the Beneficiary "carried out his activities in technical support, on-site training of Yaskawa Robots and installed equipment, and with the technical staff who would provide support to these pieces of equipment at the company." However, the Petitioner did not show how the letters reflect that the Beneficiary's work at these places somehow made a majorly significant contribution to the field as a whole. *Cf., 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); *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. 2013) (finding evidence must include "specific information relating to the impact" of the plaintiff's work in the field as a whole).

In addition, the Petitioner submitted a letter from B-D-F- who indicated the Beneficiary's attendance and participation at an "Open Housing Welding and Machining Event, where he presented our products and delivered a training session in the field of Welding and Robotics." The Petitioner also submitted a program for the welding seminar. However, the Petitioner did not contextualize or show the impact of the Beneficiary's presentation. The Petitioner did not demonstrate, for example, that the Beneficiary's presentation resulted in a majorly significant contribution in the field. Without supporting documentation showing the impact, influence, or effect in the field in a majorly significant manner, the Petitioner did not establish that simply presenting at a welding seminar indicates original contributions of major significance in the field. *Cf., Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *20 (D. Neb. Sept. 12, 2025) (upholding that attendance and presentation of material at conferences is not uncommon in the scientific fields, nor is the publication of research in the field).

Detailed letters from experts in the field explaining the nature and significance of the beneficiary's contribution may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed

significance.[7] Submitted letters should specifically describe the beneficiary's contribution and its significance in the field and should set forth the basis of the writer's knowledge and expertise.[8] Here, the letters point to the Beneficiary's work but do not demonstrate how the field views it as original contributions of major significance in the field, such as widespread impact or influence. *Cf., Gadhave v. Thompson*, No. 3:21-CV-2938-D, 2023 WL 6931334, at *5 (N.D. Tex. Oct. 19, 2023) (finding testimonial letters contained mostly general, conclusory statements about the value of the petitioner's research without explaining in detail specific ways in which his contributions have already been widely applied or replicated to serve the industry); *Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *8 (S.D.N.Y. Jan. 5, 2024) (finding the petitioner's testimonial evidence spoke largely in generalities and did not evidence the tangible impact of his work in the field); *Noroozi v. Napolitano*, 905 F. Supp. 2d 535, 544 (S.D.N.Y. 2012) (upholding reference letters with limited detail on satisfaction of regulatory criterion insufficient to form the basis for required evidence).

In the RFE response, the Petitioner contended:

> USCIS has already accepted [the Beneficiary's] publications under the separate "authorship of scholarly articles" criterion; the petitioner can now argue that the same body of work also evidences "original scientific, scholarly, or business-related contributions of major significance" because the articles document how [the Beneficiary's] methodologies have been codified, analyzed, and taught as models for industrial competitiveness and human-capital formation in automation engineering.

Although the Petitioner provided a self-compiled document listing a "Key Fact about [the Beneficiary] and "How It Shows Original Contribution of Major Significance," the document makes unsupported assertions regarding the significance of the Beneficiary's "Key Fact." Moreover, evidence that the beneficiary's work was funded, patented, or published, while potentially demonstrating the work's originality, will not necessarily establish, on its own, that the work is of major significance in the field.[9] Without evidence reflecting the impact, influence, or effect of the Beneficiary's authored scholarly work, the Petitioner did not establish the Beneficiary's written work qualifies as contributions of major significance. Documentation that published research has been highly cited relative to other works in that field may be probative of the significance of the beneficiary's contributions to the field of endeavor.[10] *Cf., Kazarian v. U.S. Citizenship & Immigr. Servs.*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part,* 596 F.3d 1115 (9th Cir. 2010) (finding publications and presentations alone are not sufficient to demonstrate major significance).

For the reasons discussed above, considered both individually and collectively, the Petitioner did not demonstrate the Beneficiary meets this criterion.

[7] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2).
[8] *Id.*
[9] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2).
[10] *Id.*

III. CONCLUSION

The Petitioner did not establish the Beneficiary meets any of the categories of evidence discussed above. Although the Petitioner also claims the Beneficiary's eligibility under 8 C.F.R. § 214.2(o)(3)(iv)(B)(*7*), we need not address this category because the Beneficiary cannot fulfill the initial evidentiary requirement of at least three. Therefore, we need not provide a totality determination to establish whether the Beneficiary has sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field. *See* section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii) and (iii).[11] Accordingly, we reserve these issues.[12] Consequently, the Petitioner has not established the Beneficiary's eligibility for the O-1 visa classification 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.

[11] *See also* 2 *USCIS Policy Manual*, *supra*, at M.4(B).

[12] *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).