U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41494696

Date: MAR. 5, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

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

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not satisfy at least three, as required, of the initial evidentiary criteria. 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

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). SCOPS determined the Petitioner met only two – judging under 8 C.F.R. § 204.5(h)(3)(iv) and scholarly articles under C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner challenges SCOPS' unfavorable determination on three categories of evidence.[1]

Moreover, the Petitioner submits new evidence on appeal. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent to deny, all evidence must be submitted together at one time and that submitting only some of the requested evidence will be considered a request for a decision on the record).

[1] 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. 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."[2] The Petitioner claims eligibility for this criterion based on his full membership with [redacted]

The Petitioner provided evidence, including bylaws and constitution, reflecting:

> Membership in [redacted] is by nomination only. Selected individuals who have shown potential as researchers are invited to join as associate members. Full membership is conferred upon those who have demonstrated noteworthy achievements in research. [redacted] interprets "noteworthy achievement" to include primary authorship of two papers. ("Paper" includes referred journal articles, patents, or internal reports. An eared doctoral degree may be substituted for one paper.) The society also considers career preparation, career path, quality of research and similar factors.[3]

In addition, the Petitioner offered a letter from A-A-T- claiming that he nominated the Petitioner for full membership with [redacted] because of "his contributions to mosquito behavior and biology, including multiple first-author papers in high-impact journals."

Here, the Petitioner did not establish that authoring two papers is tantamount to outstanding achievements, consistent with this regulatory criterion. While [redacted] considers such authorship a noteworthy achievement, the Petitioner did not demonstrate that noteworthy achievements are equivalent to outstanding achievements. *See 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).

Furthermore, A-A-T-'s letter indicated that "[h]is nomination was approved by the Committee on Qualifications and Memberships," and the bylaws reflect that "[m]embers and Associate Members are elected or promoted to membership by a chapter or by a committee designated by the Board of Directors." However, the Petitioner did not establish that the committee is comprised of nationally or internationally recognized experts. *See 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 recognized national or international experts determine qualifications for membership).

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

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[2] *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual (stating 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).

[3] *See* March 11, 2025 [redacted] letter.

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. Such evidence shall include the title, date, and author of the material, and any necessary translation."[4]

The Petitioner initially claimed eligibility for this criterion based on articles posted on [redacted] and [redacted] Specifically, the Petitioner's cover letter claimed:

> For example, [the Petitioner's] research on the dengue virus was highlighted in the article, [redacted]' by [redacted] in [redacted] 2024 (*See* Exhibit 6).
>
> . . . .
>
> [The Petitioner's] research in this area was also featured in the article [redacted]' by [redacted] in [redacted] 2024 (*See* Exhibit 7).

As it relates to the purported [redacted] article, the "Exhibit 7" reflects two screenshots of an article that appears to be part of the [redacted] article (Exhibit 6). In fact, the heading reflects [redacted] as opposed to the title, [redacted] claimed in the cover letter. Moreover, the screenshots do not make any reference to [redacted] or contain any website address indicating [redacted] and the record does not contain an article entitled, [redacted] Furthermore, in response to the request for evidence (RFE), the Petitioner made no mention of the [redacted] article but instead exclusively discussed the [redacted] article. For all these reasons, the Petitioner did not demonstrate any published material about him and his work posted on phys.org.

Regarding the [redacted] article, the Petitioner contends publication in major media. The Petitioner submitted self-promotional material from [redacted] *See Braga*, 2007 WL 9229758, at *7, *aff'd*, 317 F. App'x 680 (finding self-serving assertions on the cover a magazine insufficient to show the status or standing of a publication). Further, the Petitioner provided figures from SimilarWeb showing [redacted] global ranking of 82,844 and country ranking of 26,430. However, the Petitioner did not establish the significance of the figures or that they reflect major status of [redacted] *See Branski v. Seng*, No. 24-CV-360, 2024 WL 4678939, at *5 (E.D. Wis. Nov. 4, 2024) (indicating that the failure to provide context to circulation figures makes it difficult to assess their significance).[5]

[4] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (instructing that USCIS determines whether the published material was related to the person and the person's specific work in the field for which classification is sought).

[5] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (stating that 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).

Finally, the Petitioner claims that "USCIS concluded . . . [redacted] [is] not major media." However, SCOPS decision made no mention of a [redacted] article for this criterion, nor does the record reflect that the Petitioner claimed eligibility for this criterion based on a [redacted] article. Regardless, the [redacted] article never mentions the Petitioner, besides in the biographical reference section crediting him as one of the authors of a journal article. The [redacted] article does not reflect published material about him relating to his work rather than a discussion of malaria transmission from mosquitoes to birds through saliva. *See Gadhave v. Thompson*, No. 3:21-CV-2938-D, 2023 WL 6931334, at *3-4 (N.D. Tex. Oct. 19, 2023) (upholding published material must be specifically about the applicant and focus on his personal work in the relevant field, not merely relate to the applicant's work, mention his name, or include his photo); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *4 (D. Neb. Mar. 10, 2025) (finding the regulation and USCIS policy clearly intend for evidence under this criterion to say something substantive about the petitioner and her work).

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

C. 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."[6]

The Petitioner references various figures relating to the citation of his published works by others. For instance, as it relates to his [redacted] article (2021), the Petitioner provided evidence of the following metrics: 43 citations (Google Scholar), 93rd percentile [redacted], 2.89 field-weighted citation impact (FWCI), and within top 10% of all research outputs [redacted].[7] As another example, his [redacted] article (2016) garnered the following indicators: 41 citations (Google Scholar), 84th percentile [redacted], 1.72 FWCI, and within the top 10% of all research outputs [redacted]. While he submitted some general background information, the Petitioner did not contextualize these particular numbers, discuss their significance in determining majorly significant contributions, and explain how these statistics show his contributions have risen to the level of major significance.[8]

Without further information, the Petitioner did not demonstrate how the various metrics or numbers show his research or articles represent majorly significant contributions.[9] *See also Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *20 (D. Neb. Sept. 12, 2025) (upholding that plaintiff did not provide evidence demonstrating that work has been widely cited); *Bhanu v. Garland*, No. CV 22-103, 2023 WL 6119357, at *7-8 (E.D. Pa. Sept. 18, 2023) (upholding plaintiff did not demonstrate the

[6] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (stating that analysis under this criterion focuses on whether the person's original work constitutes major, significant contributions in the field).

[7] Although we indicate a sampling, we have reviewed and considered each one in the record.

[8] For example, the Petitioner offered screenshots from elsevier.com indicating that FWCI "is the ratio of the total citations actually received by the denominator's output, and the total citations that would be expected based on the average of the subject field."

[9] *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing an example that published research provoking widespread commentary on its importance from others working in the field, and documentation that is has been highly cited relative to others' work in that field, may be probative of the significance of the person's contributions to the field of endeavor).

number of citations received by his published articles reflect a level of interest in his work from relevant parties to meet this criterion); *Gadhave*, 2023 WL 6931334, at *5 (finding the record contained little evidence that contextualized the number of citations the petitioner's work had received); *Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, *7 (S.D.N.Y. Jan. 5, 2024) (finding the absence of detail about the actual impact of the petitioner's work and the limited citations his work had thus far received meant that he did not satisfy this criterion).

In addition, the Petitioner indicates his submission of several recommendation and reference letters. However, the letters are not sufficiently persuasive. The letters generally highlight the Petitioner's work and indicate the authors' personal implementation of the Petitioner's work into their own work. For example, S-T-B- stated that the Petitioner's "2021 publication in [redacted] established an evidence-based protocol linking nutritional stress across life stages to vector fitness and arboviral susceptibility" and "[i]n recognition of its scientific rigor, our 2024 study . . . adopted the core dietary principles from [the Petitioner's] protocol. . . ."[10] In addition, R-P- stated:

> [The Petitioner's] work is more than novel – it is demonstrably influential. My laboratory has cited and applied [the Petitioner's] methods and key findings across multiple [redacted] studies, reflected in several of our peer-reviewed publications, leading to fundamental advances in conservation policy for rare bird species. Further, his nutritional ecology findings have informed revised mosquito-rearing protocols in entomological surveillance in Africa and Europe. These protocols improve experimental reliability and are cited in research programs of public-health entities.

Detailed letters from experts in the field explaining the nature and significance of the person'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.[11] Submitted letters should specifically describe the person's contribution and its significance in the field and should set forth the basis of the writer's knowledge and expertise.[12] Here, the letters point to the Petitioner's research but do not demonstrate how the field views it as original contributions of major significance in the field, such as widespread impact or influence rather than limited to a few individuals who have cited to his work in their own work. *See Gadhave*, 2023 WL 6931334, at *5 (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*, 2024 WL 69056, at *8 (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 petitioner's satisfaction of regulatory criterion insufficient to form the basis for required evidence).

[10] Although we discuss a sampling of letters, we have reviewed and considered each of the letters in the record.
[11] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).
[12] *Id.*

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he meets this criterion.

D. O-1 Nonimmigrant Status

The Petitioner also argues that his prior "O-1A approval strongly corroborates extraordinary ability and supports approval." However, the prior O-1 approval does not preclude USCIS from denying an immigrant visa petition, which is adjudicated based on a different standard – statute, regulations, and case law.[13] *See Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *9 (N.D. Tex. June 17, 2025); *Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *2 (S.D.N.Y. Mar. 21, 2023); *Lapteva*, 2025 WL 815087, at *1. Many immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Sunlift Int'l, Inc. v. Mayorkas,* No. 20-CV-08869-JCS, 2021 WL 3111627, at *11 (N.D. Cal. July 22, 2021); *Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25, 29-30 (D.D.C. 2003); *IKEA US, Inc. v. U.S. Dep't of Just. INS*, 48 F. Supp. 2d 22, 23 (D.D.C. 1999), *aff'd sub nom. IKEA US, Inc. v. Dep't of Just., INS*, No. 99-5159, 1999 WL 825420 (D.C. Cir. Sept. 27, 1999); *Fedin Bros. Co. v. Sava*, 724 F. Supp. 1103, 1104 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d Cir. 1990). Furthermore, our authority over SCOPS, the office adjudicating nonimmigrant visa petitions, is comparable to the relationship between a court of appeals and a district court. Even if SCOPS has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigrant petition. *See Louisiana Philharmonic Orchestra v. INS*, No. CIV. A. 98-2855, 2000 WL 282785, at *2 (E.D. La. Mar. 15, 2000).

III. CONCLUSION

The Petitioner did not establish eligibility for any of the categories of evidence discussed above. 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 decline to reach and hereby reserve any final merits determination in this matter. *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).

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.

[13] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(3).

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.