U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39516318

Date: MAR. 9, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an information technology manager from Argentina, 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 aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id*.

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish either that he made original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field, that he displayed his work in the field at artistic exhibitions or showcases, that he performed in a leading or critical role for organizations or establishments that have a distinguished reputation, or that he satisfied at least three of the 10 initial evidentiary criteria. The matter is now before us on appeal pursuant to 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) 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). 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 their 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 they must provide sufficient qualifying documentation that meets at least three of the 10 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. USCIS*, 596 F.3d 1115 (9th Cir. 2010).

II. ANALYSIS

The Petitioner, a native and citizen of Argentina, claims to be an Information Technology (IT) expert, who plans to work at a Delaware company where he will work with the company's IT team to test, modify, and develop their online security programs. He entered the United States in March 2021 as a B-2 nonimmigrant visitor.

A. The AAO's Notice of Intent to Deny (NOID) and Request for Evidence (RFE)

Following a review of the evidence provided with his petition and in response to SCOPS's request for evidence, we issued a notice of intent to dismiss (NOID) the Petitioner's appeal and a request for evidence (RFE). We took note of the irregularities in the evidence provided by the Petitioner in the record before SCOPS and gave the Petitioner an opportunity to provide evidence to rebut this information. 8 C.F.R. § 103.2(b)(16)(i). While the Petitioner responded to our NOID, he did not provide a narrative explanation, supported by probative evidence, to overcome our concerns about the evidence provided pertaining to his participation in conferences and an alleged presentation by the company [redacted] of the Petitioner's work.

In our NOID and RFE, we noted that the Petitioner claimed to have been on conference committees, and that he presented his work at the [redacted] conferences overseen by an organization called [redacted] in the years 2013, 2014, 2016, and 2018. However, online archives from the conference official website did not list him as a member of any conference committee and do not show him presenting in the years he claimed. The Petitioner also claimed that the company [redacted] a corporate sponsor of the [redacted] conference in 2015, presented a case study related to his work, [redacted] however this presentation is not mentioned in the [redacted] online program for 2015. Finally, the Petitioner provided letters of support from P-E-,[1] the Secretary of [redacted] on [redacted] letterhead to

[1] We use initials to protect the identity of individuals.

corroborate conference committee memberships and activities presenting work at the [redacted] conferences in 2013, 2014, 2016, and 2018. P-E- did not respond to our routine attempts to verify the information that he provided.

Specifically, we requested original programs from the [redacted] conferences of 2013, 2014, 2016, and 2018 demonstrating the Petitioner's participation as a committee member and as a panel presenter; an original program from the 2015 [redacted] conference demonstrating that [redacted] presented a case study related to the Petitioner's work, [redacted]; a letter from [redacted] verifying that they presented a case study related to that work, [redacted] at the 2015 [redacted]; and, an updated affidavit with ink signature from P-E- confirming the information he previously provided and explaining why the Petitioner's name is not found in public information available about [redacted] conferences. We also requested an explanation addressing the above-noted inconsistencies between the electronically archived [redacted] programs and the documents that the Petitioner filed.

We informed the Petitioner that he must resolve these inconsistencies and ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). We notified the Petitioner that based in part on this derogatory information, we intended to dismiss the appeal, and we gave him an opportunity to submit additional evidence to rebut this information. 8 C.F.R. § 103.2(b)(16)(i).

In response to our NOID/RFE, the Petitioner did not provide any original programs from the [redacted] conferences of 2013, 2014, 2016, and 2018 demonstrating his participation as a committee member and/or as a presenter and did not produce an original program from the 2015 [redacted] conference demonstrating that [redacted] presented a case study related to his work, [redacted]. The Petitioner provided an updated personal statement and several sworn affidavits, including a sworn affidavit from P-E-, the Secretary for the society that puts on and organizes the [redacted] conferences. P-E- stated that the online versions of programs are "preliminary" and not the final versions of programs. P-E- stated that the Petitioner "did not speak in every conference from 2013 to 2018, but did give presentations at several of the conferences during that time." P-E- did not explain the distinction between speaking at a conference and giving a presentation and he did not confirm whether the Petitioner had ever been on a conference committee.

The Petitioner also provided an affidavit from A-A- who stated he attended the 2016 conference, kept the program, and provided a photograph of himself holding a spiral bound conference program (in Spanish) open to a page stating the Petitioner presented and a photo of a page listing the Petitioner on a 2016 [redacted] An affidavit from J-M-T- states he used to work with the Petitioner, that J-M-T- attended the 2016 conference and personally took a photograph of the Petitioner giving a presentation. This photograph shows the Petitioner standing in the front of a room appearing to address approximately 14 visible people sitting at small classroom-type desks. An affidavit from S-A- claims that he watched the Petitioner give a presentation at a conference in the mid-2010's and he thinks it was in 2016, but he is unsure of the year. An affidavit from I-M- states that he is a former colleague of the Petitioner who was assigned at the last minute as a substitute to travel to a company office to provide training on the software system (called [redacted]) for which the Petitioner was the lead developer. I-M- stated that he was assigned to cover the Petitioner's training post at the last minute so that the Petitioner could give a presentation at the 2018 [redacted] conference.

The Petitioner also provided an invitation from 2016 to serve on an academic committee for the 2016 [redacted] with a response from the Petitioner saying that he would check whether he had any trips scheduled. He also provided emails inviting him to be on evaluation panels for the [redacted] (2017) and jury member (in 2018 and 2019). The Petitioner provided, for 2017 only, his email response confirming his participation on the evaluation panel for that year.

The information requested in connection with presentation related to the Petitioner's work, participation as a speaker and member of academic committees at several conferences is material to the petition because it relates to eligibility for the criteria under 8 C.F.R. § 204.5(h)(3). Because the Petitioner's claims that he qualifies for classification as an alien of extraordinary ability based, in part, on his work being presented at conferences and being on the academic committees of multiple conferences, his history related to conferences is material to his claim to have satisfied the eligibility criteria at 8 C.F.R. § 204.5(h)(3). Although not dispositive of this appeal, in any further proceedings involving this matter, the Petitioner must explain the discrepancies between the online archives of the conference records and his claims. "Failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the [petition]." 8 C.F.R. § 103.2(b)(14).

B. The record does not reflect that the Petitioner meets the requirements of at least three criteria.

The Petitioner was the leader of a software team that developed software called [redacted] for the Argentine social security agency to streamline the process for beneficiaries to sign up for and receive benefits. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award at 8 C.F.R. § 204.5(h)(3), he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, SCOPS determined that the Petitioner satisfied only two criteria, participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought and commanding a high salary at 8 C.F.R. § 204.5(h)(3)(iv and ix). For the reasons below, we will withdraw the finding that the Petitioner meets the criteria for participation as a judge of the work of others pursuant to 8 C.F.R. § 204.5(h)(3)(iv). On appeal, the Petitioner maintains eligibility for three additional criteria. After reviewing all of the evidence, the record does not reflect that the Petitioner meets the requirements of at least three criteria.

> *Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv).

As evidence that the Petitioner has participated as a judge of work of others as required by 8 C.F.R. § 204.5(h)(3)(iv),[2] the Petitioner submitted letters of invitation to serve on evaluation panels, as described supra. As discussed above, in response to our NOID/RFE, the Petitioner did not provide the requested evidence to document this claim.

[2] SCOPS determined that the Petitioner participated as a judge of work of others as required by 8 C.F.R. § 204.5(h)(3)(iv). Upon de novo review, we will withdraw that finding. This determination was based on the Petitioner's unsubstantiated claim that he served on the conference committees for [redacted] conferences in the years 2013, 2014, 2016, and 2018. However, online archives from the conference official website do not list the Petitioner as a member of a conference committee for any of those years.

Furthermore, this regulatory criterion requires the Petitioner to show that he has not only been invited to judge the work of others, but also that he actually participated in the judging of the work of others in the same or allied field of specialization. The Petitioner, however, did not demonstrate how the letters of invitation that he furnished show that he actually participated as a judge of the work of others in the same or allied field of specialization and the substance of his work. The emailed invitations do not contain probative information such as where, when, with whom, and what materials he judged. Without evidence reflecting his participation as a judge of the work of others, including specific, detailed information, the Petitioner has not sufficiently demonstrated that he meets this criterion. We therefore conclude that the Petitioner has not established that he meets this criterion.

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner presented letters stating that he led a team that created a system for the Argentine social security agency to easily find and evaluate information. We acknowledge a scholarly article praising this intellectual property and note that the Petitioner led 40 internal technicians and 60 external technicians who collaborated. The provided article states that the digitization technology the Petitioner's team developed is based on free software, open systems and the migration to the Java and .Net platform. We agree with SCOPS that the evidence does not show that the Petitioner's work has been unusually influential, highly acclaimed throughout the field, or has otherwise risen to the level of original contribution of major significance. Original intellectual property is not necessarily evidence of a track record of success with some degree of influence over the field as a whole. *See Matter of New York State Department of Transportation,* 22 I&N Dec. 215, 221 n. 7, (Comm'r 11998). Rather, the significance of the innovation must be determined on a case-by-case basis. *Id.* In the instant case, the Petitioner showed the technology was adopted by three entities and the institution that employed him for nearly a decade. However, he has not shown that his work garnered any meaningful interest at the [redacted] conferences that would constitute a contribution of major significance in the field. The Secretary for the society that puts on and organizes the [redacted] conferences stated that the Petitioner "did not speak in every conference from 2013 to 2018, but did give presentations at several of the conferences during that time." [redacted] does not have specific records of when or what the Petitioner presented and there is no evidence pertaining to the reception of his presentations at [redacted]

Detailed letters from experts in the field explaining the nature and significance of the person's contribution may provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance. Here, the Petitioner's letters do not contain specific, detailed information explaining the unusual influence or high impact his work has had on the overall field to establish that it has been of major significance. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, *8 (S.D.N.Y. Jan. 5, 2024) (finding the petitioner's testimonial letter mostly consisted of conclusory statements about the significance of his work and his potential). The letters of references' statements and article relating to the aforementioned intellectual property are not sufficient to show that the Petitioner's specific work has widely influenced the digitization of government or has otherwise risen to the level of contributions of major significance in the field. Without sufficient evidence demonstrating that his particular work constitutes original contributions of major significance in the field, the Petitioner has not established that he meets this criterion.

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

The Petitioner claims eligibility under this criterion based on 8 C.F.R. § 204.5(h)(4), which states "[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." This regulatory provision provides petitioners with 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. *See generally* 6 *USCIS Policy Manual, supra*. When evaluating such comparable evidence, we consider whether the regulatory criteria are readily applicable to the person's occupation and, if not, whether the evidence is truly comparable to the criteria listed in that regulation. *Id.*

The Petitioner claims that unless one is an artist, the only way one can meet this standard is through comparable evidence. Thus, giving presentations at various conferences and organizations are the equivalent of this criterion, as long as one can prove that they are giving a presentation of their own original work.

The Petitioner does not cite any evidence in the record in support of these assertions. The burden of proof rests with the Petitioner, who should submit "relevant, probative, and credible evidence" to establish his claims. *See Matter of Chawathe*, 25 I&N Dec. at 376. Additionally, the plain language of 8 C.F.R. § 204.5(h)(4) permits the petitioner to submit comparable "evidence" to establish eligibility. The Petitioner's unsupported statements are insufficient to establish that this impact would be truly comparable to the display of work at artistic exhibitions or showcases. *See generally* 6 *USCIS Policy Manual, supra.*

Furthermore, as discussed supra, the Petitioner did not produce the original programs of [redacted] conferences where he claims to have presented and the updated letter from the Secretary of the organization that organizes [redacted] was non-specific and did not specify when and on what specific topic(s) the Petitioner presented. The AAO questioned the authenticity of the evidence submitted because the evidence in the record conflicted with online archives for the conferences, specifically the Petitioner's claims to have been on conference committees, and that he presented his work at the [redacted] conferences in the years 2013, 2014, 2016, and 2018. It is the Petitioner's responsibility and burden to resolve any inconsistencies in the record with independent objective evidence and attempts to explain or reconcile such inconsistencies will not suffice without competent objective evidence pointing to where the truth, in fact, lies. *See Matter of Ho*, 19 I&N Dec. at 582. The Petitioner's response to the NOID does not meet this standard.

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

B. Remaining Claimed Evidentiary Criteria

Although the Petitioner maintains eligibility for one additional criterion on appeal—relating to performing in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii)—the Petitioner has not demonstrated eligibility for any of the evidentiary criteria discussed above. He therefore cannot fulfill the initial evidentiary requirement of meeting at least three of the criteria at 8 C.F.R. § 204.5(h)(3). Therefore, we reserve the issue of whether he has satisfied the additional criterion he claims on appeal. *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).

III. CONCLUSION

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 s/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. at 25.

The Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and that he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act; *see also* 8 C.F.R. § 204.5(h)(2).

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.