U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41696392

Date: MAR. 16, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

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

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 her receipt of a major, internationally recognized award, she 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 one – scholarly articles under C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner challenges SCOPS' unfavorable determination on five categories of evidence.[1]

A. Awards

At initial filing, the Petitioner claimed eligibility for this criterion based on: 1) a postdoctoral fellowship at [redacted], 2) a postdoctoral scholar position at the [redacted] and 3) a full Ph.D. scholarship at the [redacted] SCOPS issued a request for evidence (RFE) informing the Petitioner that she "has also not established scholarships and fellowship are nationally or internationally recognized, or that they are awards for excellence in the field of endeavor, vaccine technology." The Petitioner did not address this criterion in her response.

On appeal, the Petitioner's brief argues:

> The record could have been supplemented with evidence of the number of applicants or the prestige of these awards (and indeed the RFE response included award criteria

[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)).

and institutional rankings). For example, [redacted] website (submitted on RFE) highlights [redacted] distinguished reputation, implying that scholarships there carry international prestige. By preponderance of evidence, [the Petitioner's] fellowships meet criterion (i) as nationally/internationally recognized awards for excellence. The fact that multiple independent institutions granted her competitive awards underscores her national acclaim.

We are not persuaded by the Petitioner's arguments. 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." The issue here is whether the awards are lesser nationally or internationally recognized 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.*

Here, the Petitioner offered background information from [redacted] about the fellowship programs and from [redacted] about the graduate school scholarships. However, the Petitioner did not demonstrate how the evidence shows the national or international recognition for excellence in her field of endeavor. The Petitioner, for instance, did not establish acknowledgement of the fellowships or scholarships beyond the universities to reflect national or international recognition for excellence. *See 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); *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).

Although SCOPS offered the Petitioner an opportunity to provide such evidence in the RFE, the Petitioner did not present additional documentation even though she claims that "the record could have been supplemented with evidence of the number of applicants or the prestige of these award." Instead, on appeal, the Petitioner references evidence she submitted regarding the reputation of [redacted] in support of the role criterion under 8 C.F.R. § 204.5(h)(3)(viii). However, the Petitioner did not demonstrate how [redacted] rankings or accolades demonstrate the national or international recognition for excellence in the field of her scholarship. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021) (finding the focus is on the award, not the awarding organization). In fact, the [redacted] background and self-promotional material make no mention of her particular [redacted] Research Training Scholarship," let alone its national or international recognition for excellence in the field.

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

B. Published Materials

Similar to above, although the Petitioner initially claimed eligibility for this criterion, the Petitioner did not address this category or offer additional evidence in her RFE response. Regardless, the Petitioner's brief asserts her eligibility based on: 1) a new-medical.net article that "discusses a review

paper co-authored by [the Petitioner] on innovative [redacted] vaccine approaches, highlighting the significance of [redacted] vaccine technology," 2) an encyclopedia.pub "entry summarizing [the Petitioner's] published work on [redacted]," 3) a *National Hog Farmer* article "profil[ing] advances in [redacted] vaccine development and cites a [redacted] against [redacted] that [the Petitioner] helped develop, and 4) "*ResearchCitationAnalysis.com* listed her research among noteworthy publications, and ResearchGate's news feed featured her [redacted] vaccine review paper to its professional network."

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." Here, the Petitioner did not demonstrate that her evidence reflects published material about her and her work. Rather, the documentation shows coverage of her work without any indication about her, besides simply being listed as one of the authors listed in the reference sections. 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. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The published material should be about the person, relating to the person's work in the field. *Id. See also 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); *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); *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) (finding the plain language of the criterion requires the publication to be about the alien and his work in the field); *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).

Because the Petitioner did not establish that her evidence reflects published material about her, we need not evaluate the other regulatory requirements for this criterion. *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).

Accordingly, the Petitioner did not show she fulfills this criterion.

C. Judging

SCOPS' decision states:

> Initially, the Petitioner submitted the following evidence:
>
> - Emails from JoV[E] [Journal of Visualized Experiments]

The record confirms the Petitioner reviewed one manuscript for JoVE. However, the emails do not provide sufficient information to show the review was for same or an allied field of vaccine technology.

In response to the RFE, the Petitioner submitted the following evidence:

- Springer Nature manuscript reviews
- Emails from JoV[E]

The Petitioner reviewed two manuscripts for Springer Nature after the date of filing. The petitioner must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r. 1971). As stated in the RFE, the record confirms the Petitioner reviewed one manuscript for JoVE. However, the emails do not provide sufficient information to show the review was for same or an allied field of vaccine technology.

On appeal, the Petitioner's brief contends:

> . . . JoVE is a well-known journal that spans various scientific disciplines, and the invitation was extended to [the Petitioner] because of her subject-matter knowledge.
>
> The title or subject of the specific paper was likely within an allied biomedical field. Even if the email did not spell out the article's topic, it is a reasonable inference that a vaccine technology expert would be asked to review work in immunology, biotechnology, or related fields. The regulation only requires an "allied field," and USCIS has previously recognized that fields like immunology, [redacted] and public health are allied in the context of vaccine research. Given [the Petitioner's] expertise, any research she was selected to review would be allied to her field.

We are not persuaded by the Petitioner's assertions. The regulation at 8 C.F.R. § 204.5(h)(3)(iv) requires "[e]vidence 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." The petitioner must show that the person has not only been invited to judge the work of others, but also that the person actually participated in the judging of the work of others in the same or an allied field of specialization. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Here, the Petitioner makes speculations and assumptions without supporting the record. The Petitioner did not demonstrate that JoVE "spans various scientific disciplines," "[t]he title or subject of the specific paper was likely within an allied biomedical field," "it is a reasonable inference that a vaccine technology expert would be asked to review work in immunology, biotechnology, or related fields," and "USCIS has previously recognized that fields like immunology, [redacted] and public health are allied in the context of vaccine research." The Petitioner does not point to submitted evidence, nor does the record contain documentation corroborating any of the Petitioner's assertions. 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"); *MRC Energy Co. v. U.S. Citizenship & Immigr. Servs.*, No. 3:19-

CV-2003-K, 2021 WL 1209188, at *6 (N.D. Tex. Mar. 31, 2021) (finding the plaintiff's burden to identify specific items in the record to support its position).

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Chawathe*, 25 I&N Dec. at 375-76. In this case, the Petitioner must show that she participated "as a judge of the work of others in the same or an allied field." At initial filing, the Petitioner provided emails requesting and thanking her for the review of an article entitled, "Characterization of Mycobacterium tuberculosis protein Rv3444c by ChIP-seq" for JoVE. Thus, in order to demonstrate eligibility for this criterion, the Petitioner must establish that her review of the article was either in the same or an allied field of her specialization, vaccine technology/research. However, she did not do so. The Petitioner did not show that the article involved vaccine technology/research or is an allied field. Furthermore, the Petitioner did not demonstrate that JoVE covers her particular field or an allied field. *See Sarin v. United States*, No. 2:22-CV-07498-SVW-JS, 2023 WL 5667531, at *11 (C.D. Cal. July 27, 2023) (upholding plaintiff's judging of an intra-school personality contest was not in the field of acting or in an allied field of acting).

Without further information or documentation, the Petitioner did not establish that she participated as a judge in her field or an allied field. We are also not persuaded that "any research she was selected to review would be allied to her field." The Petitioner did not demonstrate that simply reviewing any type of an article for any type of a journal would automatically show eligibility as an allied field, nor did she show that any research is allied to her field. Finally, as correctly determined by SCOPS, the additional review articles submitted in the RFE response occurred after the initial filing of the petition. An applicant or petitioner must establish that he or she remains eligible for the benefit sought from the time of filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

For the reasons discussed above, the Petitioner did not demonstrate she satisfies this criterion.

D. 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." Analysis under this criterion focuses on whether the person's original work constitutes major, significant contributions in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner's brief argues:

> Publication and Citation Record: At the time of filing, [the Petitioner's] work had accrued 114 citations in the scientific literature. In just the few months between filing and the RFE response, that count rose to 127 (though USCIS did not credit the post-filing increase).
>
> Even 114 citations, especially in the life sciences within a short span of years is substantial – it far exceeds the citation counts of many peers at her career stage. More importantly, it is evidence that number independent researchers have found her work important enough to cite in their own publications. Citations are a quantitative proxy for significance: her ideas are propagating through the field. For context, one of her

> TB vaccine papers was cited by researchers in at least 10 different countries' institutes, demonstrating international impact.
>
> . . . .
>
> . . . 114 citations is a strong indicator of significant impact, especially given that [the Petitioner's] publication history only spans the past few years (her earliest papers are from around 2018). By comparison, many extraordinary ability cases have been approved with similar or even lower citation counts when accompanied by corroborating evidence. What matters is not an absolute number but the context: Here, clearly yes – over a hundred instances of other scientists citing her is proof of that. . . .

The Petitioner's brief makes numerous assertions without referencing or pointing to evidence that supports its claims, such as "[e]ven 114 citations, especially in the life sciences within a short span of years is substantial," "it far exceeds the citation counts of many peers at her career stage," "one of her TB vaccine papers was cited by researchers in at least 10 different countries' institutes," "114 citations is a strong indicator of significant impact," and "many extraordinary ability cases have been approved with similar or even lower citation counts when accompanied by corroborating evidence." Counsel's unsubstantiated assertions do not constitute evidence. *See S-M-*, 22 I&N Dec. at 51; *see also MRC Energy Co.*, 2021 WL 1209188, at *6.

Moreover, publications and presentations are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance." *See Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd* in part, 596 F.3d 1115. Evidence that the person'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. *See generally* 6 USCIS Policy Manual, *supra*, at F.2(B)(1). Here, as discussed further below, the Petitioner has not shown that the field views any of her publications or conferences and conferences as original contributions of major significance in the field.

This criterion requires a petitioner to establish original contributions of major significance in the field. Thus, the burden is on the petitioner to identify the original contributions and explain how or why they are considered to be of major significance in the field. Here, the Petitioner did not demonstrate how her cumulative number of citations represents contributions of major significance in the field. Moreover, aggregate citation figures tend to reflect a petitioner's overall publication record rather than identifying which research or findings the field considers to be majorly significant. An example that published research provoking widespread commentary on its importance from others working in the field, and documentation that it 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. *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2)

The record reflects that at initial filing her two highest cited articles garnered 83 (*Vaccines*) and 22 (*Tuberculosis*), respectively.[2] However, the Petitioner did not show the significance or relevance of these citation figures, so as to show they are unusually high citations indicating major significance.

[2] The Petitioner's remaining four articles received 4, 3, 0, and 0, respectively.

Without further information, the Petitioner did not demonstrate that her published materials or conference proceedings represent majorly significant contributions in the field. *See 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 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).

Similarly, the Petitioner references citation of her work in publications, discussed under published material criterion above. The record contains screenshots from various publications, such as [redacted] However, none of the articles indicate the significance of the findings rather than generally reporting on recent research. Moreover, the Petitioner did not contextualize the amount of coverage her research received, indicating a level consistent with major significance in the field. Although the evidence shows some interest in her work from her field, the Petitioner did not establish that her research garnered sufficient attention to be considered majorly significant.

In addition, the Petitioner indicates her submission of several recommendation and reference letters. However, the letters are not sufficiently persuasive. The letters generally highlight the Petitioner's work but do not elaborate and explain how her work is considered to be majorly significant. For example, I-T- indicated that the Petitioner "has successfully formulated 3 vaccine libraries for 3 different diseases" but did not show the impact, influence, or effect on the field. Likewise, M-S- stated that the Petitioner "played a critical role in three vaccine development projects" and "resulted in a highly productive international collaboration" that "successfully produced 13 vaccine candidates with promising preclinical outcomes." However, M-S- did not further discuss the relevance or significance of producing 13 vaccine candidates.

Further, both N-T-B- and N-V-H-D- claimed that the Petitioner's methodology "has since inspired 65 novel vaccine projects internationally" and "has inspired the creation of over 65 new vaccine developments globally." However, neither letter expanded upon the 65 vaccine projects claim, nor did the letters explain how the field views her work as majorly significant.

Moreover, Petitioner provided a letter from R-R- who discussed the Petitioner's work in general terms without specifying how her work is considered of major significance in the field. For example, R-R- stated:

> Since 2018, [the Petitioner] has collaborated with [J-H-] on multiple projects, lending her expertise in pharmaceutical distribution, preservation and storage protocols. Her contributions were instrumental in developing peer-reviewed prescription practices among physicians, ensuring a higher standard of care for patients. She also played a key role in establishing vaccination protocols, helping us optimize immunization

> strategies for our healthcare network. Additionally, she provided valuable consultation on day-to-day clinical operations, particularly in vaccine administration, ensuring that our healthcare delivery met the highest standards of safety and efficacy.

Again, R-R- did not further elaborate and explain how, for instance, the Petitioner established vaccination protocols or provided valuable consultation. 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. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). 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. *Id.* Here, the letters point to the Petitioner'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. *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).

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

III. CONCLUSION

The Petitioner did not establish eligibility for any of the categories of evidence discussed above. Although the Petitioner also claims qualification for the roles criterion (8 C.F.R. § 204.5(h)(3)(viii)), we need not reach this ground because the Petitioner cannot fulfill the initial evidentiary requirement of at least three under 8 C.F.R. § 204.5(h)(3). *See Kinuthia v. Biden*, 702 F. Supp. 3d 5, 11 (D. Mass. 2023), *aff'd sub nom. Kinuthia v. Trump*, No. 23-2029, 2025 WL 3491324 (1st Cir. Aug. 12, 2025) (declining to consider a criterion when the plaintiff cannot satisfy at least three). Accordingly, we decline to reach and hereby reserve this issue. *See Bagamasbad*, 429 U.S. at 25.

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 she 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 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.