U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40669786

Date: MAR. 24, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks classification as an alien of extraordinary ability. *See* section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those 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 the Petitioner was not the recipient of a major, internationally recognized award, and, did not satisfy at least three of the ten evidentiary criteria to meet the initial evidentiary requirements of the classification. 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)(A) of the Act makes immigrant visas available to aliens with extraordinary ability if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry will substantially benefit the United States prospectively. 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 of the evidence to determine whether a petitioner has sustained national or international acclaim and whether their achievements have been recognized in the field. First, a petitioner can provide evidence of either "a major, international recognized award," or satisfaction of at least three of ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3).

Where a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) then considers the totality of the material provided in a final merits determination and assesses 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, 1121 (9th Cir. 2010) (discussing a two-step 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. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual (providing, as guidance, USCIS' two-step extraordinary ability analysis).

II. ANALYSIS

The Petitioner has not indicated or established that he has received a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3). He must therefore satisfy at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Based on our de novo review, the Petitioner has not met this showing.

As an initial matter, we note that the Petitioner's original filing did not identify his field of extraordinary ability. On his Form I-140, Immigrant Petition for Alien Workers, the Petitioner did not provide his occupation but claimed his job title is that of a chief executive with the Standard Occupational Code (SOC Code) 11-1011, which is for top executives.[1] In his undated personal statement, submitted in response to SCOPS' first request for evidence, the Petitioner claimed he is an individual of extraordinary ability in the field of civil engineering with a specialization in water infrastructure and environmental sustainability. In its decision, SCOPS determined the Petitioner materially changed his field and reviewed the evidence using his initial field of water supply. On appeal, the Petitioner does not address this finding. Rather he proceeds to argue his eligibility in the area of civil engineering. As the Petitioner specifically indicated he is a top executive, we interpret his area of exceptional ability as that of an executive with a specialization in water infrastructure.[2]

A. Evidentiary Criteria Waived

The Petitioner did not assert in the record below or on appeal that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(ii), (vi), (vii), (ix), or (x) regarding membership in associations, authorship of scholarly articles, display of his work at artistic exhibitions or showcases, high salary or significant remuneration for services, and commercial success in the performing arts. We therefore deem the Petitioner's eligibility under these five criteria 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))(An eligibility ground that is not raised on appeal is waived.)

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[1] *See* Bureau of Labor Statistics, U.S. Dep't of Labor, *Occupational Outlook Handbook*, Top Executives, https://www.bls.gov/ooh/management/top-executives.htm).

[2] We add that the Petitioner's initial filing contained articles and letters that describe him as working in the development of water supply and academic documents indicating he has a degree in civil engineering. However, after obtaining his degree, his employment record evidences he worked in the roles of plumber, customer service technician and supervisor, deputy director and director of economics for the city of [redacted] and deputy director of networks and facilities in the [redacted] region.

B. Evidentiary Criterion Withdrawn

SCOPS determined the Petitioner met the criterion at 8 C.F.R. § 204.5(h)(3)(iv), which requires evidence of his 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. In support of this criterion, the Petitioner provided certificates that he served on the State Attestation Commission for the protection of final qualifying works and diploma projects of students completing their bachelor's degree for the 2016-2017 and 2017-2018 academic years. The certificates also list him as a reviewer of two books that were subsequently published. According to one of the Petitioner's personal statements, his role at the commission involved "evaluating final qualifying works and diploma projects of students specializing in water supply and sewerage systems, ensuring that future professionals in the field met the highest academic and technical standards." He added that each evaluation required "a thorough review of innovative approaches and methodologies, emphasizing sustainable water infrastructure, operational efficiency, and environmental considerations." He also explained his role as a reviewer involved "ensuring" that educational materials, including textbooks, reflected the latest industry standards and were aligned with the evolving challenges of water management. While we acknowledge his statements, he did not provide independent corroborating information on his role at the State Attestation Commission and as a reviewer to demonstrate that "evaluating final works," and "ensuring educational materials reflect the latest industry standards," for example, meet the plain language of the criterion requiring judging the work of others. We therefore withdraw SCOPS' determination to the contrary.

C. Remaining Evidentiary Criteria

1. Criteria Not Established

SCOPS determined the Petitioner has not established the criterion at 8 C.F.R. § 204.5(h)(3)(i), which requires evidence of his receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. As part of our analysis, we determine whether the prizes or awards received by the Petitioner are based upon excellence in the field of endeavor. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). Relevant considerations pertaining to whether a prize or award was granted for excellence include the criteria for the prize or award, the number of awardees or recipients, and any limitations on eligibility. *Id.* The Petitioner submitted evidence of receiving a commemorative badge for the "[redacted]" in 2016 and for the "[redacted]" in 2017. However, the record does not support that either award is for excellence in the field.

For example, the awards themselves do not identify why the Petitioner received the award. Both awards state "regulation" below the title of the award and state, in relevant part, " . . . representatives of all fields, veterans, employees and law enforcement agencies, employees and other persons are appreciated." Each award then provides guidance on where the badge is worn, and identifies individuals, such as head of ministries, agencies, public associations, as being able to present the award on behalf of the President of Uzbekistan. The Petitioner included a document titled "regulations" stating the commemorative badge is awarded to "individuals who have made a significant contribution to strengthening our country's independence, enhancing its economic, political, social, scientific, spiritual potential and defense capabilities, . . . widely promoting the role and significance of our basic

law in our lives . . . ." The Petitioner also included a newspaper article dated [redacted] 2016, stating the commemorative badge for the [redacted] was awarded to the most "active" veterans, labor veterans, academics, and city and district governors of the region. A separate article from the same newspaper dated [redacted] 2017 explained the [redacted] commemorative badge was presented to more than 2,800 residents of the region, which included district and city governors, head of regional departments and organizations, community leaders, local council deputies, and veterans.

Based on the record, the two badges were awarded to individuals in various fields, and while he did not provide how many awards were given in 2016, thousands were awarded in 2017. While the Petitioner did not provide the criteria for these awards, the record indicates the badges were awarded for being "active" and making a "significant contribution" rather than for excellence in any given field. On appeal, the Petitioner argues that we cannot require that the awards be confined solely to the Petitioner's field, but he provides no authority supporting his assertion and the plain language of the statute requires the Petitioner demonstrate that he received his award for "excellence in the field of endeavor." Here, the Petitioner has not established his award was for excellence, much less for excellence in the field of endeavor. As a result, he has not established that he meets this criterion.

SCOPS also determined the Petitioner did not meet the criterion at 8 C.F.R. § 204.5(h)(3)(viii), which requires evidence of performing in a leading or critical role for organizations or establishments that have a distinguished reputation. For a leading role, officers look at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). For a critical role, officers look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *Id.* Letters from persons with personal knowledge of the significance of the person's leading or critical role can be particularly helpful in making this determination, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical. *See* 8 C.F.R. § 204.5(g)(1) (Evidence relating to qualifying experience or training shall be in the form of letter(s) from current or former employer(s) . . . and shall include a specific description of the duties performed by the alien); *see generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1).

The Petitioner asserted that he served in a leading and critical role as the head of the [redacted] Branch of [redacted] from 2016 to 2018. He, however, did not submit corroborating evidence demonstrating his role at the [redacted] Branch was leading. For example, included in the record are letters dated October 2023 and May 2024 from the director of the [redacted], who stated he worked with the Petitioner but did not describe in what capacity, did not address whether the Petitioner's role was leading and did not explain the organizational structure of the branch. In addition, the Petitioner's letters lacked sufficient details regarding whether he played a critical role for the [redacted] Branch. For example, the author explained that the Petitioner helped launch a reconstruction project of treatment facilities and sewer systems in the cities of [redacted] and [redacted]. He, however, does not provide details of how the Petitioner helped launch the project or the significance of the project to the organization or a division or department thereof. In response to SCOPS' second request for evidence, the Petitioner submitted a January 2025 letter by

another director for the [redacted]. Notably, the author does not claim personal knowledge of the Petitioner's work and also made conclusory assertions, such as, the Petitioner played a leadership role in the reconstruction project that was co-funded by the [redacted]. Without probative information regarding how the Petitioner's role impacted the organization or department, as well as an explanation of how the author came by his knowledge, these letters do not sufficiently support the Petitioner's assertions. Moreover, on appeal, the Petitioner's counsel argues, for instance, that the Petitioner was directly involved in developing the reconstruction project's strategic framework, securing funding, coordinating with international financial institutions and ensuring compliance with both national and international water management standards. However, counsel's statements are not corroborated in the record and do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1998) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)).

The Petitioner also claimed he played a leading and critical role as the honorary chairman of the State Examination Commission at the [redacted] from 2000 to 2019. However, as noted above, the Petitioner only provided certificates of his working on the commission for years 2016 to 2017 and 2017 to 2018. Moreover, while the Petitioner's support and expert letters claim the Petitioner played a leading and critical role, they do not provide details or examples of how his role was leading. In support of his role being critical, the letters described him as, for example, providing guidance and mentorship to university students, but do not explain how his role impacted the [redacted] or any of its departments or divisions.

In addition, although his supporting letters claim that he worked for distinguished organizations, they do not explain how the organizations are distinguished and the record does not contain independent corroborating information on the distinguished nature of the [redacted] Branch of [redacted] or the [redacted], or any division or department of either. For these reasons the Petitioner has not established this criterion.

2. Issues Reserved

SCOPS determined the Petitioner did not establish he meets the criteria at 8 C.F.R. § 204.5(h)(3)(iii), requiring evidence of published material about the Petitioner in professional or major trade publications or other major media, relating to the Petitioner's work in the field for which classification is sought; and 8 C.F.R. § 204.5(h)(3)(v), requiring evidence of the Petitioner's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. As the Petitioner would be unable to establish three of the ten threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude he is an alien of extraordinary ability and reserve our analysis of the remaining two criteria as well as a 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); *see also Kazarian*, 596 F.3d at 1119-20 (discussing a two-step review, where if the required number of criteria are met by the documentation, then it is considered in the context of a final merits determination).

III. CONCLUSION

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability.

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.