U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40794637

Date: MAR. 25, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a technology entrepreneur and developer, 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 record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that he met at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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:

- 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,
- the alien seeks to enter the United States to continue to work in the area of extraordinary ability; and
- 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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

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) (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. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The Petitioner is the co-founder and chief executive officer of a technology company in [redacted] Illinois. In response to SCOPS' request for evidence, he explains that he "is not simply an executive overseeing business operation; nor is he a back-end software engineer detached from implementation. Rather, he is a technology entrepreneur whose field lies at the intersection of technical development and strategic execution." He further explains that "[h]is work involves building novel safety-focused artificial intelligence systems, engineering edge devises capable of real-time inference in industrial environments and ensuring that these technologies translate into practical tools adopted by multinational corporations across three continents."

Because the Petitioner has not indicated or established that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS determined the Petitioner satisfied two of the ten criteria listed in the regulations relating to authorship of scholarly articles and leadership or critical role criteria. On appeal, the Petitioner asserts he meets the evidentiary criteria relating to awards, membership in associations, published material, original contributions, and high salary. For the reasons discussed below, the Petitioner does not demonstrate he meets at least three categories of evidence. [1]

[1] While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

A. Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner claims eligibility for this criterion based on his company, [redacted] receiving venture capital funding from the [redacted] and the [redacted] The Petitioner submitted an article and email from [redacted] as evidence of the Petitioner's role within the company. He also provided evidence of financial documentation showing [redacted] receipt of the venture capital from [redacted] The description of this type of evidence in the regulation indicates that the focus should be on the person's receipt of the awards or prizes, as opposed to the employer's receipt of the awards or prizes. *Id.* Although the evidence shows that [redacted] received the funding from [redacted], the Petitioner does not demonstrate that he received the venture capital funding consistent with this regulatory criterion.

Moreover, the Petitioner does not establish that receiving venture capital funding qualifies as a prize or award. The Petitioner asserts that "USCIS archival sources and scholarly analyses" affirm that venture capital "functions as selective recognition of excellence rather than a mere financial transaction." However, in support, the Petitioner submitted an archived screenshot from USCIS' website entitled, "Understanding O-1A Requirements," which is not relevant in this proceeding.

Furthermore, assuming that venture capital could be considered a prize or award, this would not mean that any and all venture capital, from whatever source, is a nationally or internationally recognized prize or award. Although the Petitioner provided articles about the companies, printouts from the companies' website, and a letter of recommendation from [redacted] investment manager, the Petitioner does not sufficiently explain or show how the evidence demonstrates the national or international recognition of the specific venture capital funding from [redacted] as a prize or award for excellence in the field.

In addition, the Petitioner asserts that his [redacted] meets this criterion. As previously discussed, the description of this type of evidence in the regulation provides that the focus should be on the alien's receipt of the awards or prizes, as opposed to his or her employer's receipt of the awards or prizes. *Id.* Although he provided evidence that [redacted] received the awards, the Petitioner does not establish that he received the [redacted] Award. The record includes a letter from the managing partner at [redacted] that states that the Petitioner's "performance as the CEO of [redacted] proved critical to the company's major milestones." But again, the Petitioner does not demonstrate that he received the awards consistent with this regulatory criterion.

Finally, the Petitioner does not demonstrate the awards' national or international recognition for excellence in the field. The record lacks sufficient evidence indicating that these awards are recognized beyond the awarding organizations' own websites, whether published or not. *See*

Visinscaia v. Beers, 4 F.Supp. 3d. 126, 136 (D.D.C. 2013) (requiring evidence of "how a larger audience viewed [the] awards").

Accordingly, the evidence does not demonstrate that the Petitioner meets this criterion.

B. Memberships

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for "documentation of the alien's membership in associations in the field for which classification is sought." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained outstanding achievements in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner claims eligibility for this criterion based on his acceptance into the [redacted] Accelerated Incubation Cohort. The record includes an offer letter from [redacted], a program agreement, a Simple Agreement for Future Equity, printouts from [redacted] website, and an article from [redacted] While the documentation states that the "cohort is the result of a rigorous selection process that included an advisory of industry experts, venture capitalists, manufacturers and serial entrepreneurs," the documentation does not outline this "rigorous selection process." Moreover, although the Petitioner provided a printout of the members on the [redacted] Acceleration Team, which lists individuals' names and companies, and asserts that members of the cohort are judged by experts in the field, the Petitioner does not demonstrate that the individuals on the [redacted] Acceleration Team participate in the judging of outstanding achievements and determine membership with [redacted] cohort. Furthermore, even if the individuals on the [redacted] Acceleration Team judge membership, the Petitioner does not establish that they are comprised of recognized national or international experts as he only provided their names and companies without evidence of their recognition or acclaim.

In addition, the Petitioner submitted evidence of his senior membership with the [redacted]. The Petitioner provided a Certificate of [redacted] Membership, along with information about [redacted] According to the submitted constitution and bylaws, candidates for senior membership: 1) shall be engineers, scientists, educators, technical executives, or originators in [redacted]-designated fields, 2) shall have been in professional practice for at least ten years, 3) shall have shown significant performance over a period of at least five of those years in professional practice, and 4) must supply three references from current [redacted] members holding the grade of Fellow, Senior Member, or Honorary Member. In further explaining five years of significant performance, the [redacted] documentation indicates:

> Substantial job responsibilities such as team leader, task supervisor, engineer in charge of a program or project; engineer or scientist performing research with some measure of success (papers), or faculty developing and teaching courses with research and publications, all are indications of significant performance. The following are also indicators of significant performance:
>
> - Substantial engineering, responsibility, or achievement.

- Publication or engineering or scientific papers, books, or inventions.
- Technical direction or management of important scientific or engineering work with evidence of accomplishment.
- Recognized contributions to the welfare of the scientific or engineering profession.
- Development or furtherance of important scientific or engineering courses that fall within the [redacted] designated fields of interest.
- Contributions equivalent to those of the above in such areas as technical editing, patent prosecution, or patent law, provided these contributions serve to advance progress substantially in [redacted] designated fields.

The Petitioner has not shown the requirements for senior membership with [redacted] reflect outstanding achievements. Specifically, the Petitioner did not establish that attaining a particular professional occupation, accumulating years of experience, and obtaining reference letters from other senior members represent outstanding achievements.[2] Similarly, the Petitioner has not demonstrated that the "significant performance" clause necessitates outstanding achievements. For example, the Petitioner did not establish that "substantial job responsibilities," "performing research with some measure of success," or "faculty developing and teaching courses with research and publications" signifies outstanding achievements consistent with this regulatory criterion. Without further explanation and information relating to some of the other examples, the Petitioner has not established that senior membership with [redacted] requires outstanding achievements. *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 that membership requires outstanding achievements).

Furthermore, the Petitioner does not demonstrate that recognized national or international experts judge senior membership for [redacted] The [redacted] documentation indicates that Senior member applications are reviewed by the [redacted] that is composed of Senior members, Life Senior members, and Fellows. But the Petitioner does not establish that those who judge Senior memberships to [redacted] have recognition of expertise in their field, either nationally or internationally.

Moreover, the Petitioner submitted evidence of his membership with the [redacted] Specifically, his Certificate of Membership shows that he became a fellowship member in June 2025, which is after the filing of the petition. A petitioner must meet all of the eligibility requirements of the petition at the time of filing. 8 C.F.R. §§ 103.2(b)(l), (12). Therefore, we will not consider his membership with the [redacted] here.

For the reasons discussed above, the Petitioner does not establish he fulfills this criterion.

[2] *See generally 6 USCIS Policy Manual* at F.2(B)(1) (indicating that relevant factors that may lead to a conclusion that the person's membership in the association(s) was not based on outstanding achievements in the field include, but are not limited to, instances where the person's membership was based solely on the following factors (by themselves or in the aggregate): a level of education or years of experience in a particular field; the payment of a fee or by subscribing to an association's publications; and a requirement, compulsory or otherwise, for employment in certain occupations, as commonly seen with union membership or guild affiliation for actors); *see also Soni v. United States*, No. CV 11-2431, 2016 WL 4154137, at *4 (upholding a certification merely required individuals to pay a fee and undergo an application process, possess education and experience, and take and pass a multiple-choice examination, did not reflect outstanding achievements).

C. 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." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.* The published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work). Professional or major trade publications may be identified by their intended audience, while other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *See generally 6 USCIS Policy Manual*, at F.2(B)(1).

With the initial petition, the Petitioner submitted six publications from [redacted] In response to SCOPS' request for evidence, the Petitioner submitted an additional four articles from [redacted] In the decision, SCOPS concluded that the articles briefly mention the Petitioner and, therefore, they do not establish that the published material is about "the alien" and "relating to the alien's work in the field" as required by this criterion.

On appeal, the Petitioner contends SCOPS minimized the articles as "brief mentions" which is a characterization that is contracted by the *USCIS Policy Manual*. The Petitioner highlights that:

> [O]fficers may consider material that focuses solely or primarily on work or research being undertaken by a team of which the person is a member, provided that the material mentions the person in connection with the work or other evidence in the record documents the person's significant role in the work or research.

Id. Upon review, we agree with SCOPS that the Petitioner has not established that he meets this criterion.

First, the publication from [redacted] does not identify an author as required. *See Javakhadze v. Mayorkas*, No. 3:21-CV-00617-E, 2023 WL 8037730, at *6 (N.D. Tex. Nov. 20, 2023) (upholding articles did not contain the required authors). Second, the publications from *Entrepreneur* and *Gartner* do not mention the Petitioner. Moreover, while the publications from [redacted] quote the Petitioner one time in the articles, he has not established that the material is about him. For instance, the articles from [redacted] are about [redacted] relocating to Alabama and the [redacted] article shows that [redacted] is a finalist for Tech Istanbul.

Regarding [redacted] article, it is an interview with the Petitioner about his company's AI product. While the article included the title, date, and author of the publication, the Petitioner did not demonstrate that the publication qualified as a professional or major trade publication or other major media. The Petitioner submitted a printout from [redacted]' website which included background information about the publication, but he did not submit the publication's circulation data to demonstrate that it qualifies as a major media publication in the country of publication.

Given the above, the Petitioner has not established that he meets this criterion.

D. Contributions

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for "evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." A petitioner may show that their contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia*, 4 F. Supp. 3d at 134-35. Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 USCIS Policy Manual F.2(B)(1).

To meet this criterion, the Petitioner contends he developed an AI-driven ergonomic risk assessment system via edge devices called [redacted] and that his "commercial strategies that enabled its widespread enterprise adoption – have reshaped the field of workplace safety technology and technology entrepreneurship as a whole." He asserts that his contributions through [redacted] and "its AI-driven ergonomic risk platform not only resulted in widespread enterprise adoption, but also triggered a ripple effect across the entire occupational safety technology sector." He further claims that this "industry-wide restructuring of how occupational safety is understood and implemented is the clearest possible indicator of "major significance" under the Policy Manual standard." However, the Petitioner does not sufficiently explain how his specific contributions are of major significance to the fields of workplace safety technology or technology entrepreneurship. Upon review of the record, we agree with SCOPS that the Petitioner has not established that he has made original contributions of major significance in the field.

The Petitioner refers to the statement in the *USCIS Policy Manual* that evidence of "patented technology that has attracted significant attention or commercialization may establish the significance" of an original contribution under this criterion. The Petitioner contends that the record contains detailed evidence "showing that the Petitioner's original technology achieved precisely this level of attention and commercialization." The record includes an active patent relating to a camera system and software service. But the Petitioner's name is not included on the patent. Nevertheless, the record does not include documentation showing what impact this patent had on the Petitioner's field.

While the record includes emails from companies interested in [redacted] services, agreements and contracts between [redacted] and various companies, and invoices for [redacted] products and services, the documentation does not sufficiently show that the Petitioner's work has been of major significance to the fields of workplace safety technology or technology entrepreneurship. Specifically, we acknowledge the evidence that various companies have used the Petitioner's services, but this fact alone does not establish that the Petitioner's original contribution has been widely implemented in the fields of workplace safety technology or technology entrepreneurship. Moreover, in support of his claim that multiple companies adopted the same model and commercial blueprint as his, the Petitioner submitted articles about these companies from [redacted]

[redacted] However, the articles do not mention the Petitioner or his work. Therefore, the evidence does not establish that his contributions have been widely implemented throughout the field.

In addition, the record includes a report from [redacted] and the Petitioner claims that third-party recognition further substantiates the field-wide significance of his contributions. While the report discusses the Petitioner's [redacted] and concludes that it provides workplace health and safety, along with saving companies operative costs, it does not establish that his contributions have been of major significance in the fields of workplace safety technology or technology entrepreneurship.

The Petitioner also highlights two letters of support in the record. Although the letters praise the Petitioner, the letters do not demonstrate that his contributions resulted in major significance in the field. Rather, the letters limit the relevance of the Petitioner's contributions to his employer. For instance, the letter from G-C- discusses the Petitioner's accomplishments and states that "[a]s a direct result of his leadership, [redacted] was able to secure contracts with some of the largest global companies" and '[redacted] won the world's most prestigious design awards." Moreover, the letter from H-A- states that "[u]nder [the Petitioner's] leadership, [redacted] has achieved extraordinary success." Here, the letters do not establish the significance of his contributions beyond his employer or show how those contributions have been majorly significant in the overall field.

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he has made original contributions of major significance in the field.

E. Authorship

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) calls for "evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." In academia, a scholarly article reports on original research, experimentation, or philosophical discourse, is generally peer reviewed, and may be published in professional or scientific journals or conference presentations. In other fields, a scholarly article should be written for others having profound knowledge in the field. *Id.*

To determine whether the publication qualifies as a professional or major trade publication or other major media, we consider such relevant factors as the circulation or readership relative to other media in the field and the intended audience (for professional journals). *Id.*

SCOPS determined the Petitioner submitted sufficient evidence to satisfy this criterion. However, we disagree and withdraw the SCOPS' conclusion.

In support, the Petitioner submitted a scientific article entitled '[redacted] Notably, the scientific article is in Turkish except for the abstract section. According to 8 C.F.R. § 103.2(b)(3), any document in a foreign language must be accompanied by a *full* English language translation. Here, the Petitioner has not provided a full English translation of his article as required. Nevertheless, we reviewed the evidence to determine whether the article was published in a professional or major trade publication or other major media. The Petitioner stated that his work was published in the [redacted] He provided a printout from [redacted]

[redacted] website which shows the title, authors, publication and publication date. However, the printout does not show that the article was published in the [redacted] Scientific Journal. The printout indicates, "Published in: 2022 [redacted]." The Petitioner does not provide evidence of circulation, intended audience, or readership to establish that the [redacted] is a professional journal, major trade publication or other major media.

The Petitioner, therefore, has not established that he meets this regulatory criterion.

In light of the above conclusions, the Petitioner does not meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3).[3] Detailed discussion of the remaining claimed criterion at 8 C.F.R. § 204.5(h)(3), relating to high salary cannot change the outcome of this appeal. Therefore, we reserve this issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

F. The Petitioner's O-1A Visa

We acknowledge the Petitioner is the Beneficiary of an approved O-1A nonimmigrant visa petition, and that this classification is reserved for nonimmigrants of extraordinary ability. However, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different statute, regulations, and case law. Moreover, each petition is separate and independent and must be adjudicated on its own merits, under the corresponding statutory and regulatory provisions.

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. Here, 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*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 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.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

[3] Although we did not discuss each piece of evidence submitted, we reviewed the entire record and based the decision on the relevant documentary evidence.

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.