U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41583686

Date: MAY 1, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a computer systems analyst, seeks classification as an individual of extraordinary ability in the sciences. *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 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.*

SCOPS denied the petition, concluding that the Petitioner did not establish either that he received a major, internationally recognized award, or that the record 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). If a criterion at 8 C.F.R. §§ 204.5(h)(3)(i)-(x) does not readily apply to a petitioner, they may submit comparable evidence to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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 described the endeavor as a plan to continue developing computer software systems at information technology companies including but not limited to [redacted] his employer at the time he filed the Form I-140, Immigrant Petition for Alien Workers.

SCOPS concluded that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (vi), and we agree; however, SCOPS found that the record does not satisfy the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(iii), (v), (viii)-(ix), noting that the Petitioner did not assert eligibility under the remaining criteria. On appeal, the Petitioner reasserts that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(vi), (viii)-(ix). For the reasons discussed below, the record satisfies at least three of the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x); however, considering the totality of the material provided, the record does not show that the Petitioner has sustained national or international acclaim and that he is among the small percentage at the very top of the field of endeavor. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

A. Leading or Critical Role

The criterion at 8 C.F.R. § 204.5(h)(3)(viii) requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." In determining whether an individual has performed in a critical role, we consider whether the record establishes the individual 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 thereof. *See generally* 6 *USCIS Policy Manual*, F.2(B)(1), https://www.uscis.gov/policy-manual.

SCOPS acknowledged that the record contains letters from representatives of [redacted] which SCOPS determined has a distinguished reputation. However, SCOPS objected that the letters "only indicated that your role was important to your employer" and that "None of the [redacted] colleagues who authored the letters are in an executive position (Chairman of the Board, CEO, CTO, COO, etc.) which typically provide the most persuasive and relevant information, since executives oversee the entire organization, its divisions and departments." SCOPS also observed that the testimonial

evidence in the form of letters is not corroborated by documentary evidence, citing *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The plain language of this criterion does not require a leading or critical role for organizations or establishments that have a distinguished reputation to be important to entities or individuals beyond the organization or establishment in question. Therefore, SCOPS improperly objected that the letters from [redacted] representatives "only indicated that [the Petitioner's] role was important to [his] employer." In turn, the plain language of this criterion does not require only executive-level representatives of an organization or establishment to find an individual's role to have been leading or critical. On the contrary, direct supervisors of a given individual's performance are likely to have probative personal knowledge of how an individual may have 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 thereof, rather than executive-level personnel who may not even encounter or observe a given individual employee. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Therefore, SCOPS improperly objected that the Petitioner did not submit letters from individuals "in an executive position." Moreover, the letter authors included a director of product management and a vice president of data integration and automation platform services, which undermines SCOPS' concern that the letter authors lack oversight of entire divisions or departments.

Discussion of evidentiary burdens in asylum claims raised in connection with deportable aliens seeking withholding of removal, as provided in *Matter of Y-B-*, bears only persuasive relevance to the adjudication of a Form I-140 seeking first preference immigrant classification. *See generally Matter of Y-B-*, 21 I&N Dec. at 1136. In any event, *Matter of Y-B-* contemplates a combination of both testimonial and documentary evidence, whereby "the weaker an alien's testimony, the greater the need for corroborative evidence." *Matter of Y-B-*, 21 I&N Dec. at 1139. Here, the quality of testimonial evidence, including from individuals who "had the opportunity to directly oversee [the Petitioner's] . . . contributions" and "had the privilege to oversee [the Petitioner's] work," sufficiently articulates how he contributed in ways that are of significant importance to the outcome of divisions or departments of [redacted] Moreover, the letters credibly establish how the authors have personal knowledge of the facts they address in detail. Thus, in this case, the testimonial evidence about the Petitioner's critical role does not trigger the type of documentary evidentiary concerns addressed by *Matter of Y-B-*.

In summation, based on the quality of the letters from [redacted] representatives and the substance of their personal knowledge conveyed therein, the record sufficiently describes how the Petitioner performed in a critical role for certain divisions or departments of [redacted], which SCOPS correctly determined has a distinguished reputation. Therefore, the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(viii). Because the Petitioner meets at least three of the 10 initial evidentiary criteria and, thus, warrants a final merits determination, we reserve our opinion regarding the remaining criteria. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

B. Final Merits Determination

Because the record satisfies at least three of the 10 initial evidentiary criteria, we will 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 Petitioner is among the small percentage at the very top of the field of endeavor. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

Black's Law Dictionary defines "sustain" as "to support or maintain, especially over a long period of time" or "to persist in making (an effort) over a long period of time." *Sustain*, Black's Law Dictionary (11th ed. 2019).

Generally, evidence in this case pertaining to the respective evidentiary criteria is limited to few instances, which occurred shortly before the Petitioner filed the Form I-140 in May 2025; the evidence does not show that he maintained any level of acclaim over a long period of time. More specifically:

- The lesser prize or award the Petitioner submitted is dated 2024, and he also references "institutional awards" within his employing organization, dated 2021 and 2023;
- In 2025, the Petitioner became a senior member of the Institute of Electrical and Electronics Engineers (IEEE), a full member of Sigma Xi, and a member of the Asia-Pacific Artificial Intelligence Association (APAIA);
- Although the published material the Petitioner submitted is not about him, the articles are dated primarily in 2024-25, with one article also dated 2021;
- The Petitioner judged the work of others in 2024-25;
- The Petitioner purports that his contributions since 2020 are of major significance in the field;
- The Petitioner authored or co-authored scholarly articles and he presented at conferences in 2024-25;
- The Petitioner performed in a critical role for [redacted], which began employing him in 2020; and
- The Petitioner claims he commanded a high salary or other significantly high remuneration, based on earnings statements dated 2025 and a 2024 IRS Form W-2.

The record does not establish how the Petitioner has received any degree of acclaim, whether national, international, or otherwise, by virtue of much of the evidence. For example, given that the publications dated 2021, 2024-25 are not about the Petitioner for the reasons SCOPS addressed, they do not demonstrate any degree of acclaim he may have received at any point. As further examples, the record does not show a causal nexus between any acclaim he may have received and his 2024-25 salary or other remuneration, or his 2025 membership in IEEE, Sigma Xi, and APAIA.

Even to the extent that the Petitioner may have received any degree of acclaim based on the events referenced above, the record does not establish how such a brief period before the Petitioner filed the Form I-140 in May 2025 may be deemed a long period of time, as contemplated by "sustained national or international acclaim" provided at section 203(b)(1)(A) of the Act.

Because the Petitioner does not establish that the totality of the evidence provided shows sustained national or international acclaim, that he is among the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation, the Petitioner is not eligible for the requested classification. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

III. CONCLUSION

The evidence meets at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). However, the totality of the record does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. *See Kazarian*, 596 F.3d at 1119-20. U.S. Citizenship and Immigration Services has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). 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. 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.