U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37858173

Date: MAY 8, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an engineering researcher, requests classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 201(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition. SCOPS concluded that the Petitioner met two of the requested immigrant visa category's ten evidentiary requirements – one less than needed for a final merits determination. On appeal, the Petitioner contends that he satisfied the following three additional criteria:

- Receipt of lesser nationally or internationally recognized awards for excellence in his field;
- Memberships in organizations in the field requiring outstanding achievements of their members; and
- Original contributions of major significance to the field.

See 8 C.F.R. § 204.5(h)(3)(i), (ii), (v).

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that he met the requisite minimum number of evidentiary criteria by submitting evidence of original contributions of major significance in his field. We will therefore withdraw the decision and remand the matter for a final merits determination and entry of a new decision.

I. LAW

To qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and

- Would substantially benefit the country as an immigrant.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a petitioner received "a major, international recognized award," they must satisfy at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3).[1]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination. To merit approval, the record – as a whole – must establish a petitioner's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (implementing a two-step extraordinary ability analysis); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner and His Field

The record shows that universities in the Petitioner's home country of South Korea awarded him a bachelor of science degree in chemical engineering and master of science and doctoral degrees in chemical and biological engineering. He has more than ten years' experience as an engineering researcher.

At the time of the petition's filing, the Petitioner was a post-doctoral researcher at a U.S. university working to develop new catalysts to convert ethanol to jet fuel. He seeks to continue his engineering research in the United States.

B. SCOPS' Contradictory Decision

On appeal, the Petitioner notes that SCOPS' decision in this matter contradicts itself. The decision first states that he met the requisite minimum number of three evidentiary requirements but later indicates that he did not.

The record shows that the Petitioner claimed to meet the following five evidentiary requirements:

- receipt of lesser nationally or internationally recognized awards;
- memberships in associations in the field requiring outstanding achievements;
- participation as the judge of others' work in the field;
- original contributions of major significance in the field; and
- authorship of scholarly articles.

[1] If an evidentiary criterion does not "readily apply" to a petitioner's occupation, they may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

See 8 C.F.R. § 204.5(h)(3)(i), (ii), (iv), (v), (vi).

SCOPS found that he met two of those requirements: participation as the judge of others' work; and authorship of scholarly articles. *See* 8 C.F.R. § 204.5(h)(3)(iv), (vi). SCOPS concluded that he did not submit evidence of his: receipt of lesser nationally or internationally recognized awards; memberships in associations requiring outstanding achievements; or original contributions of major significance. *See* 8 C.F.R. § 204.5(h)(3)(i), (ii), (v).

In first stating the Petitioner's satisfaction of three evidentiary requirements, SCOPS found that he also submitted evidence of the display of his work at artistic exhibitions or showcases. *See* 8 C.F.R. § 204.5(h)(3)(vii). But the record shows that he neither provided artistic evidence nor claimed to meet this criterion.

Thus, a preponderance of the evidence demonstrates that, although SCOPS mistakenly found that the Petitioner submitted evidence of the display of his work at artistic exhibitions or showcases, SCOPS concluded that he satisfied only two of the evidentiary requirements that he claimed to meet and denied the petition on that basis. The Petitioner does not claim that the decision's inconsistencies prejudiced him in filing this appeal. We will therefore treat the error in SCOPS' decision as harmless. *See Zamorano v. Garland*, 2 F.4th 1213, 1228 (9th Cir. 2021) (citation omitted) (applying "traditional administrative law principles" in reviewing immigration agency decisions); *see generally Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing cases regarding harmless or scrivener's errors).

C. The Claimed Evidentiary Criteria

The record supports SCOPS' findings that the Petitioner satisfied two evidentiary requirements regarding participation as a judge of others' work and authorship of scholarly articles. *See* 8 C.F.R. § 204.5(h)(3)(iv), (vi). To meet additional criteria, his evidence must objectively satisfy the parameters of the applicable regulatory descriptions. *See generally* 6 *USCIS Policy Manual* F.2(B). "[N]either USCIS nor [the] AAO may unilaterally impose novel substantive or evidentiary requirements beyond those set forth at 8 C.F.R. § 204.5." *Kazarian*, 596 F.3d at 1121 (citation omitted).

1. Lesser Nationally or Internationally Recognized Awards

This criterion requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." 8 C.F.R. § 204.5(h)(3)(i).

When adjudicating this requirement, USCIS first determines if a petitioner – as opposed to their employer, for example – received prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 1. The Agency next determines if the awards honored excellence in the applicable field and have national or international recognition. *Id.*

The Petitioner submitted evidence that he won:

- a [redacted]' in 2017 from an [redacted]
- a 2013-2015 scholarship from a South Korean government program; and

- a 2014 creative research contest for graduate students.

SCOPS found insufficient evidence of the awards' national or international recognition. SCOPS stated:

> The evidence simply does not show that [the awards are] recognized in the field on a broader level, beyond the organization which issued them. For instance, the evidence does not show [that] the award recipients receive a level of media coverage that is commensurate with a nationally or internationally recognized prize or award for excellence in the field.

On appeal, the Petitioner contends that his young scientist award is an "internationally recognized" award for excellence in his field. He states that, at the time he received the award, it was issued every other year to a researcher under age 34 who made "outstanding contributions and demonstrated exceptional promise in catalysis engineering with a particular focus on acid and/or base catalysis."

A letter from a researcher who served as a presenter at the conference where the Petitioner received the young scientist award supports his contentions. But, as SCOPS found, the record does not demonstrate the award's national or international recognition. The Petitioner argues that, consistent with USCIS policy, the award's grantor is a "well-known professional association." *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 1 ("Examples of qualifying awards may include, but are not limited to: . . . Certain awards from well-known national institutions or well-known professional associations.") The record, however, does not establish the award's grantor as well-known. The statements of the Petitioner and the presenter are insufficient to show national or international recognition. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 136 (D.D.C. 2013) ("Without evidence of how a larger audience viewed Plaintiff's awards, there was no way for the agency to evaluate whether those awards were recognized widely enough to satisfy this criterion.")

The Petitioner contends that his other honors are "nationally recognized" because "each of the awards is open to members of the academic institution [that issued them]." Counsel asserts that the research university that issued his 2014 contest award is a "household name" in South Korea that is frequently rated among the top 100 schools in the world. The record, however, does not corroborate counsel's assertions. *See INS v. Phinpathya*, 464 U.S. 183, 188 n.6 (1984) ("Counsel's unsupported assertions . . . do not establish that the respondent could satisfy the 'continuous physical presence' requirement.") Also, even if the university that issued the award has national recognition, it does not necessarily follow that that particular prize has national recognition. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021) ("[A]s reflected in the regulation's plain text, the focus is on the *award,* not the awarding organization.") (emphasis in original).

Contrary to 8 C.F.R. § 204.5(h)(3)(i), the Petitioner has not documented that his awards received national or international recognition. We will therefore affirm SCOPS's decision regarding this evidentiary requirement.

2. Memberships in Associations Requiring Outstanding Achievements

To meet this requirement, a petitioner must submit "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of

their members, as judged by recognized national or international experts in their disciplines or fields." 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner submitted evidence of his membership in several engineering, chemical, and energy associations and information about the organizations. But SCOPS found insufficient evidence that the associations "require outstanding achievements or use recognized national or international experts to determine which individuals qualify for membership."

On appeal, the Petitioner argues that evidence of his membership in one association, a [redacted] meets this criterion. He states that, unlike other engineering organizations, the society does not have a "fellow" membership level requiring exceptional contributions in the field. But, because the co-chairperson of a society committee selected him to review members' research papers, he states that his membership "should not be treated as a general membership that requires only good standing in the occupation (such as licensure) and membership dues, but a higher level of membership within [the] highly prestigious organization."

Under USCIS policy:

> [t]he level of membership afforded to the person must show that in order to obtain that level of membership, recognized national or international experts judged the person as having attained outstanding achievements in the field for which classification is sought.

6 *USCIS Policy Manual* F.2(B)(1), Criterion 2.

The Petitioner indicates that the catalysis society does not have a membership level requiring outstanding achievements of its members as judged by experts. He submitted society information stating that a member can be "[a]ny person from North America having interests in supporting, promoting or encouraging the growth and development of the [redacted]" Thus, his evidence does not meet this criterion because, even assuming that his review of members' research papers constituted an outstanding achievement, he has not demonstrated that his membership required that or another outstanding achievement. *See Braga v. Poulos*, No. CV 06-5105 SJO (FMOx), 2007 WL 9229758, at *5 (C.D. Cal. July 6, 2007), *aff'd*, 317 Fed. Appx. 680 (9th Cir. 2009) ("[T]he organization itself must require outstanding achievement as a condition of membership.") Also, he has not established that recognized national or international experts judged his membership in the society.

The Petitioner has not demonstrated that the associations to which he belongs required outstanding achievements of their members as judged by recognized national or international experts. We will therefore affirm SCOPS finding regarding this criterion.

3. Original Contributions of Major Significance

This criterion requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v).

USCIS first determines whether a petitioner made original contributions in their field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 5. The Agency next determines whether the original contributions are of major significance to the field. *Id.*

To meet this criterion, the Petitioner submitted a variety of evidence, including: letters of recommendation and support; records of his publications and citations; and information regarding his patents and technology transfers. SCOPS found: "Although the evidence shows that the petitioner has engaged in original research studies and produced original results, the evidence fails to show that this research and its findings constitute contributions of major significance in the field."

As the Petitioner contends, however, SCOPS overlooked evidence. The record shows that, from 2020 to 2023, the Petitioner served as a senior researcher on a project to produce synthetic gasoline for cars using carbon dioxide as a raw material. His work led to two U.S. patents and three published research papers. A U.S. assistant chemical and biological engineering professor who now works with the Petitioner stated: "[H]e unlocked the potential of using [redacted]." The assistant professor and other experts stated that, based on the Petitioner's research, various South Korean companies formed a consortium to build a system capable of producing, from landfill biogas, 216 kilograms a day of eco-friendly hydrogen, enough to fuel 34 hydrogen electric vehicles.

Evidence of the consortium's plan to commercialize the Petitioner's low-carbon hydrogen method persuades us that his contribution had major significance in his field. *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 5 ("[E]vidence that the person developed a patented technology that has attracted significant attention or commercialization may establish the significance of the person's original contribution to the field.")

The Petitioner submitted evidence of his original contributions of major significance to his field. We will therefore withdraw SCOPS' contrary finding.

D. Final Merits Determination

The Petitioner met the requisite minimum number of evidentiary requirements. USCIS must therefore conduct a final merits determination in this matter. SCOPS did not make such a finding. Rather than make one in the first instance, we will remand the matter.

On remand, SCOPS must determine whether the Petitioner has sustained national or international acclaim and recognition of his achievements sufficient to identify him as one of that small percentage who has risen to his field's very top. *See generally* 6 *USCIS Policy Manual* F.2(B)(2). SCOPS should consider any potentially relevant evidence of record, even if it does not fit one of the regulatory criteria or was not presented as comparable evidence. *Id.* The Petitioner's burden of proof includes the burden of explaining the significance of his submitted evidence, and how it demonstrates that he has achieved sustained national or international acclaim and recognition in his field. *Id.* The petition's approval or denial should hinge on the evidence's type and quality. *Id.*

III. CONCLUSION

The Petitioner has met the requisite minimum number of evidentiary requirements by submitting documentation of original contributions of major significance in his field. USCIS must now conduct a final merits determination.

ORDER: The decision is withdrawn. The matter is remanded for a final merits determination and entry of a new decision consistent with the foregoing analysis.