U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37847239

Date: MAY 13, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a quantum chemist, 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 (EB-1) classification makes immigrant visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their fields through extensive documentation.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner contends that SCOPS did not give due consideration to the totality of the relevant evidence and this error constitutes an abuse of discretion.

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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Section 203(b)(1) of the Act makes visas available to aliens 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) ("EB-1 petitions, nicknamed Einstein visas, are coveted visas reserved for only the most talented noncitizens with extraordinary ability in the sciences, arts, education, business, or athletics"). 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 the beneficiary's 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 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). Additionally, if the criteria at 8 C.F.R. § 204.5(h)(3) do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's 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 beneficiary 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).

II. ANALYSIS

The Petitioner received a bachelor of science degree from [redacted] University in China in 2011 and a doctor of philosophy degree from The [redacted] University in 2016. The Petitioner asserts that he was a postdoctoral research fellow at [redacted] University from 2016 to 2019. He has been a theoretical and computational scientist, a research position, in the [redacted] since 2019.

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). The Petitioner claims to have satisfied three of these criteria relating to judging, original contributions, and scholarly articles at 8 C.F.R. § 204.5(h)(3)(iv),(v), and (vi), respectively. SCOPS decided that the Petitioner had satisfied only two criteria relating to judging and scholarly articles. On appeal, the Petitioner maintains that he meets all three claimed criteria and that he has sustained national or international acclaim and is one of the small percentage who has risen to the very top of his field of endeavor.

Upon review of the record, we agree with the Petitioner that he has satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(v) relating to original scientific contributions of major significance in the field. A review of the record of proceedings reflects that the Petitioner submitted sufficient documentary evidence establishing that he minimally meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v) based on his publication record, citation statistics, and support letters from experts in the field. In denying the petition, SCOPS acknowledged the citation of the Petitioner's research work but concluded

that the record did not show that the impact of his work on the overall field of theoretical chemistry rises to the level of original contribution of major significance. SCOPS also acknowledged the Petitioner's submission of support letters from experts in the field but concluded that these writers did not provide any information or objective documentary evidence to show that the Petitioner's research work has been of major significance in the field.

At the time the Petitioner filed his petition in 2023, his Google Scholar profile showed that he co-authored 17 scholarly articles in his field, which were published in professional publications. The Google Scholar database showed over 3,000 citations of his article published in 2015, over 900 citations of his two articles published in 2020 and 2021, and over 100 citations of his three articles published in 2014, 2015, and 2016. The Petitioner's [redacted] percentile ranking indicates that he is one of the top 1% of the most highly cited authors publishing on the topic of chemistry from 2014 to 2023. Documentation that published research 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 generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. These citations do speak to the field's reliance on the cited works.

In addition, the support letters from experts in the field establish by a preponderance of the evidence the Petitioner's original scientific contributions of major significance in the field. The Petitioner submitted five support letters from experts in the field, and four of these letters were from independent researchers who do not know the Petitioner personally but have relied on his work to further their own studies. These writers provide detailed descriptions of some of the Petitioner's research projects, explain how his work has influenced subsequent studies in quantum chemistry and the development of analogous theoretical methodologies, and emphasize the significance of the Petitioner's work and his contributions to the field of quantum chemistry. Detailed letters from experts in the field explaining the nature and significance of the person's contribution may 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 contributions and their significance to the field and should also set forth the basis of the writers' knowledge and expertise. *Id.*

The Petitioner has, therefore, overcome the only stated ground for denial of the petition. Nevertheless, the record does not support approval of the petition. Granting the third initial criterion does not suffice to establish eligibility for the classification the Petitioner seeks. SCOPS must undertake a final merits determination to analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if he establishes extraordinary ability in his field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

When considering the evidence submitted to show the Petitioner's acclaim and recognition in the field, SCOPS must consider whether or not the record corroborates the Petitioner's assertions. For example, participation in the peer review process does not automatically demonstrate that an individual has sustained national or international acclaim at the very top of their field. The record includes thank you emails from publishers for the Petitioner's reviews of various manuscripts from 2018 to 2023. Although the record shows that the Petitioner reviewed numerous manuscripts, it does not demonstrate how his reviews differentiate him from the field, such as evidence showing how his work compares in quantity and quality to that of his peers. Without evidence that sets him apart from others in his field,

such as evidence that he has a consistent history of reviewing or judging recognized, acclaimed experts in his field, evidence that he has served in editorial positions for distinguished journals or publications, or other sufficient evidence, the Petitioner has not established that his peer review experience places him among that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2). SCOPS must keep such factors in mind when weighing the record for the final merits determination.

III. CONCLUSION

Because the Petitioner has overcome the only stated ground for denial, we remand this proceeding so that SCOPS can render a final merits determination in keeping with the *Kazarian* framework.

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