U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37958599

Date: MAY 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is an environmental engineer who 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.

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did he demonstrate that he met at least three of the ten regulatory criteria. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The alien enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The alien's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. The term "extraordinary ability" refers only to those 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-step analysis. In the first step, a petitioner can demonstrate international recognition of his or her 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 he or she must provide sufficient qualifying documentation that

meets at least three of the ten criteria 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).

Where a petitioner meets these initial evidence requirements, we then move to the second step to 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, 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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022).

II. ANALYSIS

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has 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). Before SCOPS, the Petitioner claimed he met six of the regulatory criteria. SCOPS decided that the Petitioner satisfied two of the criteria relating to judging and the authorship of scholarly articles and we will not disturb those conclusions. But SCOPS further decided he had not satisfied the criteria associated with prizes or awards, membership, published material, or original contributions. On appeal, the Petitioner withdraws his claims relating to prizes or awards but maintains that he meets the previously claimed evidentiary criteria. After reviewing all the evidence in the record, we conclude the Petitioner has not demonstrated he is eligible for this highly restrictive immigrant classification.

1. "Documentation 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).

This criterion contains the following evidentiary elements the Petitioner must satisfy:

- First, the Petitioner must demonstrate that he is a member of an association in his field;
- Second, the associations require outstanding achievements as a condition of membership;
- And third, the associations utilize nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding.

SCOPS determined that the Petitioner did not meet the requirements of this criterion. On appeal, the Petitioner's claims consist of the following associations:

1. Appointment as Auxiliary/Technical Engineer for the Brazilian justice system;
2. First-place ranking in the selection process for a federal professor position at the [redacted]
3. Faculty member at the [redacted] also serving as a course coordinator;
4. Reviewer for the national higher education performance exam; and
5. President of the [redacted]

These are the same claims the Petitioner advanced before SCOPS, so to prevail under this criterion on appeal, the Petitioner must demonstrate how SCOPS erred in their analysis. If we were to boil down SCOPS' findings here, they noted the Petitioner's shortcomings were related to his failure to demonstrate some of the claimed associations offered membership status, his evidence did not demonstrate the claimed associations required outstanding achievements of its members, and finally that membership is judged by recognized national or international experts. Those are the primary requirements under this regulatory provision.

On appeal, the Petitioner continues to argue each of the named entities are qualifying and his association with each equated to being the type of membership the regulation requires. Regarding the association in item 1 listed above, SCOPS decided that being named as a technical engineer was not a membership in an association as the regulation requires, and even if it was the record lacked sufficient evidence to demonstrate the entity required outstanding achievements as a condition of "membership." The Petitioner contests that determination in the appeal but does not adequately address the issue SCOPS raised that serving as a technical engineer for the Brazilian judicial system is not an association that has a membership. Instead, he only pointed to correspondence from a judge in the Brazilian judicial system he offered in his request for evidence (RFE) response.

The judge's letter identifies the three main criteria for Brazilian professionals to act as judicial experts to include: (1) administrative review after the expert registers in a system to confirm the expert's qualifications; (2) a judge evaluating the expert's credentials; and (3) after the expert submits a technical report the judge and the opposing party assess whether the report meets the expected standards. Absent from this method is the requirement for outstanding achievements. Rather, it appears that judges simply evaluate whether registered experts are *qualified* and as a result, the Petitioner has not satisfied the plain language requirements of this criterion relying on this entity. The record must establish the claimed entity requires outstanding achievements. *Mussarova v. Garland*, 562 F. Supp. 3d 837, 845 (C.D. Cal. 2022) (upholding record did not include evidence that the associations required outstanding achievements from their members).

Relating to the entities in items 2–4 above, the Petitioner does not directly contest SCOPS' determination and only references back to his RFE response. The Petitioner does not identify any particular error SCOPS may have made relating to those entities and simply disagrees with their final analysis. The reason for filing an appeal is to provide an affected party with the means to remedy what they perceive as an erroneous conclusion of law or statement of fact within a decision in a previous proceeding. *See* 8 C.F.R. § 103.3(a)(1)(v). It is insufficient to merely assert that SCOPS made an improper determination. Where a question of law is presented, supporting authority should be included, and where the dispute is on the facts, there should be a discussion of the particular details contested. *Matter of Valencia*, 19 I&N Dec. 354, 355 (BIA 1986). Here, the Petitioner does not mount a sufficient claim for these entities in the appeal.

Regarding the entity in item 5 listed above, the Petitioner relies on a letter he submitted in response to SCOPS' RFE from [redacted], the president of the [redacted] Within her letter, the only aspect she offered relating to membership requirements was the following statement: "Members must possess an impeccable reputation and recognized expertise in relevant fields." The Social Statute relating to this association that the Petitioner also provided in the RFE response contains similar vague

requirements reflecting they are "chosen from individuals of impeccable reputation and renowned knowledge in the field of the Association's activities, elected by the General Assembly . . . ."

Lacking from the material are the standards or principles the association will utilize to determine what constitutes an impeccable reputation or their level of expertise or knowledge, and the Petitioner's account of how those aspects are commensurate with the regulation's requirement for outstanding achievements of prospective members. *See Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *9 (N.D. Cal. Feb. 16, 2021) (finding that although the petitioner was the national coach for the Brazilian Vaulting Team, the record lacked other information to suggest that his employment as a coach was commensurate with membership in an association requiring outstanding achievements).

Here, the record does not support the Petitioner's claims under this regulatory requirement.

2. "Published 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. Such evidence shall include the title, date, and author of the material, and any necessary translation." 8 C.F.R. § 204.5(h)(3)(iii).

The Petitioner provided several forms of evidence under this criterion before SCOPS which determined he did not meet the regulatory requirements. On appeal, the Petitioner contests their adverse decision relating to an article in [redacted] and an interview on YouTube.

Regarding the article in [redacted] SCOPS decided it was missing the author and the Petitioner did not demonstrate it was one of the three publication types the regulation mandates. Even if we accept the Petitioner's explanation on appeal regarding the absence of an author, we are not persuaded by his arguments that it qualifies as major media.

In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media). *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Furthermore, the Petitioner did not identify the circulation figures for other similar publications by which it can be determined through comparison that [redacted] qualifies as other major media. *Id.* (noting when USCIS evaluates whether a submitted publication is other *major* media, relevant factors include the relative circulation, readership, or viewership *that should be compared* to other similar statistics).

The phrase "other major media" is generally accepted to mean a publication with significant reach and recognition, and it follows that we may reasonably require evidence of the same type of reach and recognition through circulation data. *Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 185 (D.N.J. 2021); *see also Noroozi v. Napolitano*, 905 F. Supp. 2d 535, 545 (S.D.N.Y. 2012); *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885, at *10 (E.D.N.Y. Sept. 30, 2011). We are also not required to accept a publication's own claims relating to whether it qualifies as major media. *Id.* (citations omitted). In summary, the Petitioner has not submitted evidence that meets the regulation's requirements relating to other major media.

The Petitioner argues in the appeal that, despite [redacted] website being ranked 1,804,095 globally and 98,679 nationally, this publication qualifies because those accessing it originate from around the world and because it covers a wide range of topics. National or international accessibility by itself is not a realistic indicator that a given website qualifies as a form of major media. The Petitioner's simple assertions that a publication with rankings such as those submitted for the record qualifies as major media are not probative or persuasive. The Petitioner's unsupported statements have little evidentiary value and will not make a prima facie eligibility showing, much less satisfy their burden of proof. *See Matter of Mariscal-Hernandez*, 28 I&N Dec. 666, 673 (BIA 2022); *see also Matter of Azrag*, 28 I&N Dec. 784, 787 (BIA 2024).

And SCOPS decided the interview on YouTube lacked material to demonstrate it qualified as a form of major media. The original interview and transcript of this interview was in a foreign language. Although the Petitioner initially submitted a translation for this interview, the translation was not a certified English translation. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit a properly certified English language translation of the document, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims.

Even setting that aside, one of the shortcomings associated with the [redacted] also plagues the Petitioner's evidence relating to this YouTube channel as it falls short of demonstrating it is "major audio or video coverage of the person and the person's work" as detailed in agency policy. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Although the Petitioner's appeal contains assertions relating to the channel's statistics such as subscribers and total number of views, those are not documented for the record, and even if they were "[t]he presence of something on the internet, a medium accessible to nearly anyone with a computer or smart device, does not establish that it is actually read or respected." *Krasniqi*, 558 F. Supp. 3d at 185. The record lacks evidence that this YouTube channel routinely attracts national or international attention beyond a limited audience.

Here, the Petitioner has not submitted evidence that meets the plain language requirements of this criterion.

3. "Evidence 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).

The primary requirements here are that the Petitioner's contributions in their field were original and they rise to the level of major significance in the field, rather than to a project or to an organization. *See Amin*, 24 F.4th at 394 (citing *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. 2013)). The regulatory phrase "major significance" is not superfluous and, thus, it has some meaning. *Nielsen v. Preap*, 586 U.S. 392, 415 (2019) (finding that every word and every provision in a statute is to be given effect and none should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence). Further, the Petitioner's contributions must have already been realized rather than being potential, future improvements. Contributions of major significance

connotes that the Petitioner's work has significantly impacted the field. The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

Within the appeal, the Petitioner relies on his citation record and letters describing his contributions to biodrying discoveries. Biodrying is a process that uses biological digestion and aeration to remove moisture from biodegradable waste. SCOPS determined that the Petitioner did not meet the requirements of this criterion. SCOPS noted he accumulated a moderate citation record and although the support letters consider him as a successful researcher who has made original contributions to his field, they did not establish his contributions amounted to major significance.

According to the Petitioner, his drainage bed technology focuses on improving the dewatering of water treatment plant sludge, which is a common waste by product in municipal water treatment. His improvements center on modifying traditional sludge drying beds by incorporating simple but effective enhancements, especially the use of plastic covers and optimized bed designed to increase drying efficiency. He claims his method or research findings made the following improvements:

- Sludge drying time was reduced by 40–60 percent;
- Final sludge solids content improved, meaning it could be handled more easily, transported with lower cost, considered for reuse such as in bricks or compost blends; and
- His methodology also resulted in improved environmental and practical benefits to include low-cost upgrades to existing infrastructure, reduced the need for mechanical dewatering, minimized leachate generation and odor, and it aligns with sustainable and decentralized waste management practices.

On appeal the Petitioner focuses on the presence of independent citations, but his arguments in this area stop abruptly without further explanation. We note the evidence he offered before SCOPS on this topic did not illustrate any particular publication preponderantly shows a contribution of major significance in the field. Comparing overall citation rates is more appropriate to the final merits determination, where it can serve as a metric of acclaim and renown within the field.

A more apt metric under this criterion would be comparing citations to one of the Petitioner's individual published articles—as opposed to all of his work—with other researchers' single published papers in his specialized field. We view a comparison of citations to individual scientific articles to be more relevant for this criterion to establish the overall field's general view of a contribution of major significance. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (providing that "published research that has provoked widespread commentary on its importance from others working in the field, and documentation that it 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"). We note agency policy here does not reference the entire body of work of other researchers compared with a petitioner's body of work. Rather, USCIS policy focuses on whether a petitioner's individual published article is highly cited relative to other researcher's individual work in the field.

Further, even though the Petitioner characterizes the number of independent citations as an "exceptionally high number," he only offered his own Google Scholar profile, but he did not explain or provide comparative evidence showing how that number of citing references amounts to an exceptionally high number in his field. The Petitioner further claimed he authored several book

chapters on the topic of drainage bed technology, but the evidence he provided was in a foreign language and even though he indicated he provided an English version abstract that material does not appear to be in the record. Even if an abstract was part of the record, the regulation at 8 C.F.R. § 103.2(b)(3) requires a full English language translation as opposed to a simple abstract.

Before we proceed with our analysis, we explain drainage bed technology. Drainage bed technology has been widely used in developed regions and rural systems, and they allow free water to drain through sand and gravel layers allowing sunlight and air to evaporate moisture from the sludge surface, using no mechanical parts and making them low maintenance.

Now we turn to the support letters the Petitioner presents as illustrating the significant impact his biodrying research has effected in his field. SCOPS generally discussed the letters, quoting from two of them, and determined the authors did not demonstrate how the Petitioner's research findings were of major significance in the field. The Petitioner contests that diminished view in the appeal brief noting SCOPS could not have fully considered all of the letters and their descriptions of how his findings have influenced the field through adoption in Brazil increasing the use of drainage bed technology.

In the letter from [redacted] she claimed the Petitioner contributed to the development and refinement of drainage bed technology and that the technology has been implemented in several Brazilian municipalities with expansion possible to tropical environments outside of Brazil, but it is unclear at what level the credit of the progress is attributable to the Petitioner versus the technology itself. Because the technology already existed and was not the Petitioner's creation or discovery, her letter lacks an explanation of how his efforts in the field relating to this technology have been sufficiently influential.

The Petitioner's appeal also refers to the letter from one of his professors, [redacted] Within [redacted] second letter submitted with the RFE response, he noted that he conceived of and introduced the concept of drainage bed technology. Much like [redacted] letter, the former professor also discussed the potential use of drainage bed technology throughout and beyond Brazil. [redacted] further notes the Petitioner's contribution to drainage bed technology was his research relating to the use of plastic coverings that sped up the evaporation process and protected the sludge from rain during inclement weather. While [redacted] notes the Petitioner disseminated his findings through various publications, his letter falls short of explaining the extent to which the Petitioner's findings resulted in improvements to drainage bed technology and moved the concept forward.

And the final letter the Petitioner relies on in his appeal from [redacted] does not fare any better to demonstrate his contributions to the field rise to the level of major significance. Mr. [redacted] described how the Petitioner consolidated the studies of other researchers to highlight the use of plastic membranes to cover the sludge. But he did not explain how the Petitioner's synthesizing the findings of other researchers has already impacted the field to the point that would support the claims that he has made sufficient impacts within his field.

Although the Petitioner has shown that he is known within the industry for synthesizing other's findings within his review article, he has not explained or demonstrated that this factor has significantly impacted the field. It is apparent that the Petitioner has made original contributions in

his field, but he has not offered arguments or evidence to show that those contributions have had a sufficiently appreciable impact in the field, and as a result he has not met this criterion's requirements.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we do not need to provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119–20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward that goal. USCIS 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). Here, the Petitioner has not shown the significance of their 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). Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and they are one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.