U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40063442

Date: NOV. 4, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a surgical resident and medical researcher, 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 petition, concluding that the record did not establish that the Petitioner had either received a major, internationally recognized award or satisfied at least three of ten initial evidentiary criteria, as required. 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 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 immigrant visas available to aliens with 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. A petitioner must establish that these aliens seek to enter the United States to continue work in the area of extraordinary ability, and that their entry into the United States will substantially benefit the United States. The term "extraordinary ability" refers only to those aliens 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 international recognition of an alien's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence 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. If those standards do not readily apply to the alien's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we assess whether the record shows sustained national or international acclaim and demonstrates that the alien 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 earned a medical degree in Nigeria in 2018, followed by a period of mandatory voluntary service performing research and medical care. In 2022, the Petitioner entered the United States as an H-1B nonimmigrant for a research fellowship in orthopedic surgery at [redacted] affiliated with [redacted] while also earning a master's degree in population health research from [redacted] In 2024, he began studying at [redacted] and working as a surgical resident at [redacted][1]

Because the Petitioner has not indicated or shown 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 initially claimed to have satisfied six of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the alien in professional or major media;
- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance;
- (vi), Authorship of scholarly articles; and
- (viii), Leading or critical role for distinguished organizations or establishments.

The Petitioner also claimed to have submitted evidence comparable to display at artistic exhibitions or showcases, 8 C.F.R. § 204.5(h)(3)(vii).

SCOPS concluded that the Petitioner met two of the criteria, pertaining to participation as a judge and authorship of scholarly articles. On appeal, the Petitioner asserts that he also meets the other four claimed criteria. The Petitioner does not contest SCOPS' conclusions regarding evidence comparable to display, and therefore we consider that issue to be abandoned. Any ground of ineligibility that is not raised on appeal is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

Upon review of the record, we agree with SCOPS that the Petitioner has satisfied the criteria relating to judging and scholarly articles. We will discuss the other claimed criteria below.

[1] In November 2024, the Petitioner filed a Form I-140 immigrant petition, with receipt number [redacted] seeking classification as a member of the professions holding an advanced degree. The Petitioner also sought a national interest waiver of the job offer requirement. SCOPS approved that petition in May 2025, days after the present petition was filed.

1. Prizes or Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The Petitioner submitted a copy of a certificate of commendation from

SCOPS concluded that the Petitioner had not shown that the certificate "was a prize or award in the beneficiary's field or if the certificate was given for excellence in the beneficiary's field of endeavor."

On appeal, the Petitioner states that his service included "work in his field of medical science." But the record does not show that the State Coordinator's Certificate of Commendation" is a nationally recognized prize or award.

In a request for evidence (RFE), SCOPS requested evidence about the award and the entity that awarded it; the criteria for the award; its "geographic scope"; the number of recipients; and documentation of any "[p]ublic announcement regarding the awarding of the prizes or awards issued by the granting organization."

In response, the Petitioner submitted information about the including references to "the President's Honours Award." The Petitioner emphasized these references, but he did not show that the certificate of commendation he received is a "President's Honours Award." That phrase does not appear on the Petitioner's certificate. The submitted materials indicate that the presidential award includes "[a] National Certificate of honour duly signed by His Excellency, the President, Federal Republic of Nigeria."

In contrast, the Petitioner's certificate is an State Coordinator's Certificate of Commendation" issued by The only signature on the document belongs to state coordinator in not the president of Nigeria.

The Petitioner acknowledged "the word 'state'" in "the title of the award," but asserted: "This should not be taken as the award having less than national relevance, rather, the award was designed to be presented to the recipient by the State Governor or their representative." The Petitioner did not submit any documentary evidence to support this specific assertion. The certificate itself refers to the recipient's "noteworthy performance during the National Service in the State."

The Petitioner submitted a printout of web search results, including a post on X announcing swears in 2500 corps members." The Petitioner did not submit a printout of the full X post, but the headline concerns the beginning of the members' term of compulsory service, rather than a public announcement that the Petitioner had received a prize or award.

The Petitioner has implied that his certificate is a "President's Honours Award," but the record does not support this conclusion. The available evidence indicates that his certificate constitutes a lower level of state, not national, recognition.

The Petitioner has not satisfied the requirements of this criterion.

2. Published Material

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) calls for 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. The evidence must include the title, date, and author of the material, and any necessary translation.

The Petitioner submitted printouts of the materials from *Drug Discovery Trends*, *Science News*, and [redacted] website, announcing the publication of a journal article concerning research involving a hormone called relaxin. A later press release from [redacted] website indicated that this research won a [redacted] Award."

The Petitioner acknowledged that his "name is not specifically mentioned in the news articles and publications." But he quoted 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual, adding emphasis to certain phrases: "Moreover, **officers 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**." The Petitioner asserted that he has established his "significant role in the research" and therefore the published materials should satisfy the criterion.

In denying the petition, SCOPS focused on the absence of the Petitioner's name from the published materials and the lack of evidence to show that the published materials appeared in qualifying media. But review of the record reveals an even more fundamental issue.

The Petitioner arrived in the United States in June 2022 to begin his fellowship at [redacted] But most of the published materials are from before 2022. Three of the initially submitted articles are from June 2019, three years before the Petitioner's arrival. The [redacted] printout is from 2021. The published materials concern earlier stages of a research project that the Petitioner eventually joined at a later date, but they do not relate to *his work* as the regulation requires.

The Petitioner's response to the RFE includes abstracts of scholarly articles by researchers at [redacted] and affiliated institutions, reporting further findings about relaxin. Some of these articles were published after the Petitioner's June 2022 arrival in the United States, but the partial printouts that the Petitioner submitted do not show that the articles are about the Petitioner's own work on the relaxin project.

The Petitioner has not satisfied the requirements of this criterion.

3. Original 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.

The Petitioner described his research projects and stated that he "and his team collaborated with the [redacted] to create "three videos . . . to demonstrate appropriate surgical techniques." The Petitioner documented that this work took place, and he submitted background information about the issues that his work seeks to address, but these materials do not establish the major significance of his contributions.

Evidence that the person's work was funded, patented, or published, while potentially demonstrating the work's originality, will not necessarily establish, on its own, that the work is of major significance to the field. *See, generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

To satisfy the requirements of this criterion, the Petitioner must show that his own contributions are of major significance. The Petitioner has not met this threshold. For instance, the Petitioner established that he made the video presentations discussed above, but he has not shown the impact of those presentations or otherwise demonstrated that the videos are contributions of major significance in the field. As another example, the Petitioner submitted a copy of "Senate Resolution 867 – Designating September 2024 as 'National Spinal Cord Injury Awareness Month.'" This resolution points to the overall importance of spinal cord injury awareness, but it does not address the Petitioner's contributions in that area or show that those contributions are of major significance.

In the RFE, SCOPS noted the Petitioner's participation in research, some of which has led to published articles, but concluded that the Petitioner had not provided "[o]bjective documentary evidence of the significance of [his] contribution to the field."

After the Petitioner responded to the RFE, SCOPS concluded that the Petitioner had established the originality of his contributions, but not their major significance. On appeal, the Petitioner asserts that SCOPS did not discuss his response to the RFE. We will discuss the RFE response below, and explain why it does not establish eligibility.

In response to the RFE, the Petitioner stated that he has published his work in "top . . . journals" and presented at "top . . . conferences." The Petitioner did not submit evidence to show that these forums only publish or present work of major significance in the field. The reputations of particular journals and conferences do not establish the major significance of his work from those sources. The Petitioner quotes the *USCIS Policy Manual* regarding "particularly highly-ranked journals," *id.* at F.2(B)(2), but this discussion concerns the final merits determination that USCIS undertakes only after establishing that a given alien has satisfied at least three of the underlying criteria.

The Petitioner also observed that he "is an early-stage researcher," and therefore "the first attempts at reproducing [his] work . . . should be published or presented sometime in 2027 or 2028." The Petitioner adds: "The fact that a research project is not yet widely cited or reproduced does not necessarily equate [to] an absence of its major significance in the field." It remains that the burden is on the Petitioner to affirmatively establish the major significance of his original contributions. Attempts to explain the absence of evidence in this regard do not result in a presumption of eligibility.

The Petitioner submitted a copy of a reference letter from the chief of orthopedic surgery at [redacted]. The letter, written to support the Petitioner's "application to [a] residency program," contains enthusiastic

praise for the Petitioner's "expertise, knowledge, maturity, and leadership," but does not identify any original contributions of major significance.

The Petitioner has argued that his involvement with highly regarded institutions demonstrates his standing in the field. This information, to some extent, is relevant in a final merits determination, but cannot serve to establish indirectly, by association, the major significance of the Petitioner's original contributions. Evidence of publication, for instance, is not sufficient by itself, but we give considerable weight to evidence that the "published research . . . has provoked widespread commentary on its importance from others working in the field." *See, generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner has not satisfied the requirements of the criterion.

4. Leading or Critical Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The Petitioner served as the principal investigator (PI) on a number of studies at [redacted] A printout from the website of the National Institutes of Health (NIH) defines a "principal investigator" as "the person(s) in charge of a clinical trial or a scientific research grant."

The Petitioner stated: "According to the USCIS policy manual . . . , examples of lead or critical roles includes [sic] 'senior faculty or senior research position for a distinguished academic department or program.'" *See, generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The Petitioner contended that the role of a PI "represents the apex of a research career."

The record shows that a PI has a leading role within a given research project, but a project is not an organization or establishment, and therefore such a role within a project does not satisfy the requirements of the regulatory criterion.

The evidence in the record shows that, in this case, the title of "PI" is project-specific rather than a "position" at [redacted] The Petitioner did not corroborate his claim that "the apex of a research career" is to be named PI of a research project. It remains that, when he served as a PI, the Petitioner was a fellow in a time-limited training program, reporting to tenured faculty.

In the RFE, SCOPS stated that the Petitioner had not established that his role as a PI was leading or critical for [redacted] In response, the Petitioner submitted more information establishing that a PI has considerable control and discretion over a given project. But this information does not establish that the PI's role is leading or critical to the entire organization, or to a department or division of that organization that has a distinguished reputation in its own right.

In the denial notice, SCOPS concluded that the Petitioner had not established that his role as a PI was leading or critical at an organizational level.

On appeal, the Petitioner describes previously submitted materials and asserts that the role of a PI "is undoubtedly critical." As explained above, however important a PI may be to a given project, the

project itself is not an organization or establishment. The Petitioner contends that he submitted evidence from the NIH "describing the role of a Principal Investigator as being a senior research role," but the NIH printout in the record does not establish the significance of a PI's role beyond the specific project. The Petitioner, who bears the burden of proof in this proceeding, has not corroborated his claims about the leading or critical nature of a PI's role for the institution where a given project takes place.

The Petitioner has not satisfied the requirements of the criterion.

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner to 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 the Petitioner has established eligibility as an alien of extraordinary ability and we need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 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. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

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.