U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39024313

Date: NOV. 05, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, an oil and gas mechanical engineer, seeks first preference immigrant classification as an individual of extraordinary ability. *See* section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can show their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

Service Center Operations (SCOPS) denied the petition, concluding that although the evidence satisfied three of seven initial regulatory criteria the Petitioner claimed below at 8 C.F.R. § 204.5(h)(3), he did not establish that he has sustained national or international acclaim and is among the individuals in the small percentage at the very top of their field. This matter is now before us on appeal, which we review de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). The Petitioner has the burden of establishing his eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) 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 this country 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.

"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 regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, an alien can show sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or alternatively, by providing sufficient evidence that satisfies at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial regulatory 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)

(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).

II. ANALYSIS

The Petitioner has a mechanical engineering bachelor's degree from India and a master's degree in mechanical product design from Singapore, which he obtained, respectively, in 2004 and 2007. The record, including his resume, indicates he subsequently worked for many companies, including as a mechanical and product design engineer in Singapore from 2004 to 2013, and then as a senior mechanical engineer for [redacted] LLC and for [redacted] (after it acquired [redacted] until 2022. He has since been working as "Principal Mechanical Engineer" at [redacted] in Texas. He states he intends to continue his work as a lead oil and gas mechanical engineer and help develop innovative products that are more efficient, robust, and safe.

Because the Petitioner has not indicated, and the record does not otherwise show, receipt of a major, internationally recognized award, he must satisfy at least three of the ten regulatory criteria. He claimed eligibility for seven criteria at 8 C.F.R. § 204.5(h)(3)(i)-(vi), (viii), and SCOPS found, and we agree, that he met the three criteria at 8 C.F.R. § 204.5(h)(3)(iv) (judging), (vi) (scholarly articles), and (viii) (leading or critical roles). But, following a final merits analysis, SCOPS denied the petition, concluding that the record did not establish the Petitioner's claimed extraordinary ability as he did not demonstrate sustained national or international acclaim and that he is in "that small percentage" of individuals "who have risen to the very top of the field of endeavor," as required.

A. Final Merits Determination

Because the Petitioner has submitted initial evidence that satisfied at least three of the ten regulatory criteria, we are not required to address whether he has also met the remaining four regulatory criteria he claimed to have met. Instead, we will review SCOPS' final merits determination and assess whether the evidence demonstrates that the Petitioner has sustained national or international acclaim, he is among the small percentage at the very top of the field, and his achievements have been recognized in the field through extensive documentation. We conclude that it does not.

The purpose of a final merits determination is to evaluate the Petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to show that he has extraordinary ability in the field of endeavor. Section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *Kazarian*, 596 F.3d at 1119-1120; *see also* 6 *USCIS Policy Manual*, F.2(B)(2), https://www.uscis.gov/policy-manual (stating that final merits determination evaluates the evidence together in its entirety to determine whether a person has shown, by a preponderance of the evidence, the required high level of expertise and acclaim, indicating that the person is one of that small percentage who has risen to the very top of the field of endeavor).

In concluding that the Petitioner had not established his sustained national or international acclaim and that he is among the few at the top of his field in a final merits determination, SCOPS evaluated the totality of the evidence, specifically considering the Petitioner's educational and professional background as well as his assertions and documents related to the seven regulatory criteria he claimed below at 8 C.F.R. § 204.5(h)(3), namely that he has (i) received nationally or internationally

recognized prizes or awards for excellence; (ii) memberships in professional associations that require outstanding achievements of their members, as judged by recognized experts in their fields; (iii) publications about himself in professional or major trade publications or other major media, relating to his work in the field; (iv) participated as a judge of others' work; (v) made original contributions of major significance to the field; (vi) authored scholarly articles; and (viii) performed leading or critical roles for distinguished organizations. SCOPS also considered the Petitioner's assertion that he was listed as a co-inventor in a 2011 U.S. patent application as well as his claim that he was a significant contributor for many other patent applications.

On appeal, the Petitioner alleges that SCOPS failed to conduct a full final merits determination and improperly considered only three of the seven regulatory criteria he claimed (judging, scholarly articles, and leading or critical role) in isolation, and ignored relevant evidence for the remaining four criteria that SCOPS found that he did not satisfy under 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), and (v) (awards, membership, publications about him, and original contributions of major significance, respectively). The Petitioner also resubmits documents in support of his assertion that he met the four remaining regulatory criteria that he claimed to satisfy.

However, contrary to these assertions, and as discussed above, SCOPS specifically addressed all seven regulatory criteria, their pertinent factors, and related documents in the final merits context as *Kazarian* requires; and explained why the "*record as a whole*" did not establish his eligibility for the highly restrictive visa classification intended only for the small percentage of individuals at the very top of their fields, rather than for those with experience and notable accomplishments who are also aspiring to progress toward the top. For instance, SCOPS acknowledged various awards, certificates, and other recognitions (such as letters of appreciation) the Petitioner received over the years primarily from his employers and for successful project completions and conference participations, but concluded that the record lacked evidence of their national or even international recognition beyond recognition he received from his employers, conference attendees, and award sponsors. Additionally, as SCOPS found, many awards on which he relied were given by industry groups to his employers or their divisions, rather than to the Petitioner specifically and thus is insufficient to establish sustained national or international acclaim. As for published materials about the Petitioner, SCOPS noted that some were self-publications and the record otherwise lacked evidence that they were widely read or distributed in the oil and gas sector and thus had garnered him acclaim at the national or international level. SCOPS further found that he had not shown that the press coverage he received is indicative of a level of success among that small percentage who has risen to the very top of his field.[1]

In further evaluating the final merits of the Petitioner's case, SCOPS also found that his peer review activities, published coauthored articles and textbooks, and successful job performance as an employee of his companies did not evidence that he is among the very few in his field of endeavor who has sustained national or international acclaim, as required. SCOPS further explained that he did not provide sufficient evidence addressing the claimed influence of his specific contributions in the field

[1] Many of the publications also do not include any title, specific date, or author's name (as the plain language of this regulatory criterion at 8 C.F.R. § 204.5(h)(3)(iii) requires); others appear to be promotional material; some do not even mention the Petitioner or his work but discuss his employers' projects and industry background; and YouTube videos about his claimed accomplishments do not include any transcript. Moreover, the record lacks evidence that the materials were published in professional or major trade publications or other major media. Thus, SCOPS also correctly determined that the Petitioner's documents do not satisfy this threshold evidentiary criterion. *Id.*

throughout his career, beyond his own employers and their customers. Additionally, SCOPS noted that the record also lacked probative evidence that the various patent applications (only one of which lists him as a co-inventor) had a significant impact in the field or otherwise have been recognized in the industry as major contributions. SCOPS further determined that the Petitioner's memberships in professional organizations, including the [redacted], also did not establish his claimed sustained national or international acclaim as the record does not indicate that he received recognition for his memberships or that these associations necessarily limit their membership to individuals with renowned endeavors. Accordingly, contrary to the Petitioner's assertions, SCOPS considered all the relevant evidence, including those pertaining to the four evidentiary criteria that he did not satisfy.

The Petitioner reiterates on appeal that the various company and conference awards and a fellowship award he received from [redacted] (which has international presence and members) show renowned distinction and high acclaim in the field. But as stated and SCOPS determined, the record lacks sufficient evidence of the awards' acclaim or that the awards were in fact widely recognized beyond his employers, award sponsors, awarding entities, or conference attendees. He also reasserts that he submitted ample evidence of "published materials" about himself indicating his distinguished reputation in the field. But, as SCOPS found, he has not shown that the media coverage he received is consistent with a level of success that reflects sustained national or international acclaim. He also has not overcome SCOPS' finding that the record did not otherwise show that the articles were widely read or distributed in the industry thus garnering him national or international acclaim. He does not identify or specifically address on appeal any evidence he claims purportedly shows the articles' wide viewership, their targeted audience, and how they were actually reported by "leading trade journals and industry-wide publications," as he claims. Moreover, as noted in part above, he does not persuasively explain, and the record lacks probative evidence as to, how the publications (many of which do not mention him or his work and are not specifically "about" him) show the claimed high renown and stature in his field. Although he also relies on various self-profile background information utilized in conferences and for presentations and other professional engagements, they appear to be promotional biographical information rather than published materials about him or his work.

We acknowledge the Petitioner's assertion and related evidence that his fellow-level memberships with [redacted] and the [redacted] which appear to require a selective process, may indicate a higher distinction than that of their regular members. However, satisfying 8 C.F.R. § 204.5(h)(3)(ii)'s "membership" criterion does not by itself hsow sustained national or international acclaim under the *Kazarian* final merits framework. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (stating that even professional athletes performing at the major league level do not automatically meet the "extraordinary ability" standards). The record as a whole still must establish high acclaim based on demonstrated extraordinary ability that places him at the very top of his field, for a favorable final merits determination. As SCOPS concluded, the Petitioner has not demonstrated that he received recognition for his membership in the various organizations or that the organizations limit membership to individuals with renown endeavors.

Although the Petitioner also continues to highlight his peer review experience, key roles he has performed in completing his employers' engineering projects (some of which won him employee and associations awards and in collective, not individual-specific, awards), and his coauthored articles and textbooks, they do not automatically support a finding that he has sustained national or international

acclaim and is at the very top of his field. The record lacks evidence of the claimed impact of his specific efforts and accomplishments for a favorable final merits determination. Although the Petitioner generally asserts that he submitted "objective evidence such as patents, third-party adoption, citations, and commercial use of [his] technologies" that he claims demonstrate substantial impact to the industry beyond his employers, he does not identify any specific probative document in the record or explain how it supports this assertion.

The record also does not contain any evidence of citations to his coauthored articles or textbooks, and it does not show his published work provoked any notable discussion in the field or that his findings and methodologies have been adopted by other individuals and entities in the field as a whole, beyond his employers, affiliates, potential clientele, and colleagues. Further, the record does not contain any evidence of individuals or institutions utilizing his coauthored textbooks, or any related sales or citation records that may indicate its economic or academic success. Moreover, it is unclear how his publications specifically relate to his intended endeavor of continuing to work as a lead mechanical engineer. Further, the record indicates that the Petitioner earns below-average to average salary of around $100,000 to $140,000 (according to his own disclosure, an employer letter, and public sources), and he does not claim that he has ever commanded a high salary or other high remuneration for his services in relation to others in the field in the same occupation at a similar level that may be reflective of significantly higher salaries of those who are at the very top of his field.

Lastly, the Petitioner relies on a 2011 U.S. "patent application publication" (on a "cargo transfer system"), which lists him one of many co-inventors. But the record contains no evidence that this patent application was granted. He also relies on several patent-related drawings and descriptions and other inventors' approved 2019 U.S. patents. We acknowledge recommendation letters he submitted indicating that he may have helped in projects which led to these other inventors' patents and he may have participated in and had familiar knowledge of the underlying proprietary research for them. But the approved U.S. patents do not list him as an inventor, mention his name, or reference his work, and the record contains no evidence of their impact in the field as a whole. Although the Petitioner also lists one "pending" patent and five "published patents" on his resume as his accomplishments, it is unclear if these refer to the above-noted patent application and other inventors' approved patents. The Petitioner does not otherwise explain the information on his resume regarding the "pending" or "published" patents and the record also lacks any objective evidence of them and their impact.

The record as a whole does not establish the Petitioner's eligibility for the benefit sought.[2] Here, he seeks a highly restrictive visa classification, intended for individuals already at the top of their fields, rather than those moving toward the top. *Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes may not meet the statutory standards for classification as an individual of "extraordinary ability"); *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2002) (stating that extraordinary ability is such an elite level of accomplishment); *Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) (holding that extraordinary ability visas are known as "Einstein" visas, are extremely "coveted," and "reserved for only the most talented" aliens"). The record does not show that the significance of the Petitioner's work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. Section 203(b)(1)(A) of the Act. While he need not prove that there is no one more

[2] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence).

accomplished to qualify for this highly restrictive visa classification, the evidence of record does not show that he is among the small percentage at the very top of his field. *See* 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.