U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 34150375

Date: NOV. 13, 2024

Appeal of Vermont Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a mobile application and software development business, seeks to classify the Beneficiary, a Senior IOS Developer, as an individual of extraordinary ability. This O-1 nonimmigrant visa classification is available to individuals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

The Director of the Vermont Service Center denied the petition, concluding the Beneficiary had not satisfied the initial evidentiary criteria applicable to individuals of extraordinary ability in business: either receipt of a major, internationally recognized award or at least three of eight possible forms of documentation. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B). The matter is now before us on appeal pursuant to 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

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics that has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of science, education, business, or athletics" as "a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor." 8 C.F.R. § 214.2(o)(3)(ii).

Next, DHS regulations set forth alternative evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner may submit evidence either

of "a major, internationally recognized award, such as a Nobel Prize," or of at least three of eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994) ("The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met.") Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows sustained national or international acclaim such that the individual is among the small percentage at the very top of the field of endeavor. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).[1]

II. ANALYSIS

Because the Petitioner did not indicate or establish the Beneficiary has received a major, internationally recognized award, it must demonstrate the Beneficiary satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). The Director determined that the Petitioner submitted evidence related to the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*7*) and concluded the Petitioner did not establish the Beneficiary's eligibility for any of those criteria.[2]

Furthermore, the Petitioner makes additional eligibility claims and presents new evidence that were never argued or presented before the Director in this proceeding. Specifically, for the first time on appeal, the Petitioner contends that the Beneficiary fulfills the criterion relating to high salary under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*8*). However, as the Petitioner did not claim the Beneficiary's eligibility for this criterion before the Director, either at the time it filed the petition or in response to the Director's request for evidence (RFE), we will not consider this claim in our adjudication of this appeal.[3] *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (providing that if "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial, we will not consider evidence submitted on appeal for any purpose" and that "we will adjudicate the appeal based on the record of proceedings" before the Director); *see also Matter of Obaigbena*, 19 I&N Dec 533 (BIA 1988). For the same reason, we will not consider the new evidence the Petitioner presented for the first time on appeal pertaining to judging under 8 C.F.R. § 214.2 (o)(3)(iii)(B)(*4*). *See also* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time).

> *Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor*. 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*).

On appeal, the Petitioner argues that it satisfies this criterion based upon the Beneficiary's receipt of a 2023 [redacted] It claims a [redacted] award is "a prestigious distinction in the business sector" and that selection for this award is based "on the merit of the individual's

[1] *See also* 2 *USCIS Policy Manual*, M.4(C)(2), https://www.uscis.gov/policymanual.

[2] We consider any previous eligibility claims not raised on appeal to be waived. *See, e.g., 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)).

[3] In the RFE, the Director specifically indicated that the Petitioner "did not submit any evidence for this option." In response, the Petitioner did not claim the Beneficiary's eligibility for this criterion.

achievements . . . . which includes assessment by a panel of independent judges and publication of achievements in prestigious media outlets."

According to screenshots from the awarding entity [redacted] the [redacted] is "the [redacted] business awards program, celebrating the finest achievements in entrepreneurship, innovation, and corporate responsibility." These materials claim that "[w]ith a rigorous evaluation process and an esteemed panel of international judges, we ensure that the accolades we bestow reflect the pinnacle of success" based upon the association's "5 years recognizing remarkable service, 12,400 remarkable business entries, and 8 objective measurement criteria." The screenshots encourage visitors to "[a]pply today and be a winner;" the application form requests applicants to indicate their industry and whether they are applying as a company or an individual.

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*) requires "the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor."[4] Although the Petitioner submitted evidence about the [redacted] from its website, which claims that "[w]inning an award boosts a company's credibility," "distinguishes it from competitors," and "can boost team morale and provide recognition for employees' hard work," this evidence does not indicate the national or international recognition for excellence in the field. The material does not show how the field views winning the [redacted] as being tantamount to a nationally or internationally recognized prize or award for excellence. Additionally, the record lacks "the 8 objective measurement criteria" this entity relied upon to select the winners of this accolade. Further, the screenshots do not indicate that winners receive a level of media coverage that is commensurate with a nationally or internationally recognized award in the business field.

The Petitioner also asserts on appeal, under the heading entitled "Appeal To The Comparable Evidence,"[5] that "[w]hile not traditional 'awards,' [the Beneficiary's] roles as a thought leader, key speaker at major industry events, and his publications in respected trade magazines offer substantial proof of his professional esteem and recognition in the tech community," and recommendation letters from C-G and D-H- "provide a perspective on his reputation beyond conventional awards . . . ." Because the Petitioner did not articulate a comparable evidence claim of eligibility under one or more of the criteria at 8 C.F.R. § 214.2(o)(3)(iii) at initial filing, or in response to the Director's RFE, we will not consider this basis as it was not presented before the Director. *See Soriano*, 19 I&N Dec. at 766; *see also Obaigbena*, 19 I&N Dec. at 533.

For the reasons discussed above, the Petitioner did not establish the Beneficiary's eligibility for this criterion.

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[4] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2)(appendix).

[5] The regulation at 8 C.F.R. 214.2(o)(3)(iii)(C) provides that "[i]f the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility." Thus, a petitioner must demonstrate why the regulatory criterion does not pertain to a beneficiary's occupation and how the evidence submitted is "comparable" to the objective evidence required at 8 C.F.R. § 214.2(o)(3)(iii). *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(3) (instructing that a general unsupported assertion that the listed criterion does not readily apply to the beneficiary's occupation is not probative, and officers do not consider comparable evidence if the petitioner submits evidence in lieu of a particular criterion that is readily applicable to the beneficiary's occupation simply because the beneficiary cannot satisfy the criterion).

> *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. § 214.2(o)(3)(iii)(B)(*2*).

The Petitioner claims that the Beneficiary meets this criterion based on his membership with Grupo de Lideres Empresariais in [redacted] Florida (LIDE [redacted] and the Central Florida Brazilian American Chamber of Commerce (CFBACC).[6]

The Petitioner submitted two letters from G-P-G-, the CEO of LIDE [redacted] The first letter states that the Beneficiary was admitted as an "associate" of LIDE [redacted] in March 2023.[7] The second, undated letter, indicates:

> To become a member of LIDE, qualifications of a stringent and high caliber are required from an entrepreneur. Among the criteria evaluated are highly specialized knowledge in the field of work, notable and above-average stream of revenue in the field of work, the practice of corporate governance, valuing human beings at all levels, respecting the environment and offering support for social responsibility programs, and the notoriety of organizations, maintaining a renowned and reputable public image in Brazil and abroad.

In addition, G-P-G- provides "it was a pleasure to induct [the Beneficiary] as the Chief Technology Officer (CTO) of the LIDE [redacted] group" and claims that "IT Leaders associated with LIDE are people who must be known to drive the profit, growth and sales of their respective associations." Moreover, he states that the Beneficiary is on LIDE [redacted] Executive Membership Board. The letters do not cite to any governing authority or other supporting evidence as a basis for LIDE [redacted] membership requirements as an associate, CTO, or on the Executive Membership Board of the organization.

In order to meet this criterion, a petitioner must not only establish that membership in the association requires outstanding achievements of its members, but those outstanding achievements are judged by recognized national or international experts for membership within the association.[8] The letters do not explain how having "highly specialized knowledge," "notable and above-average stream of revenue," and being "known to drive the profit, growth and sales of their respective associations" are outstanding achievements. In addition, the letters do not address the selecting body who judges the membership criteria and whether it is comprised of recognized national or international experts in the business field. Moreover, the Petitioner has provided no evidence explaining how a position on the Executive Membership Board is awarded to LIDE [redacted] members and that such position requires outstanding achievement as judged by experts in the business field.

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[6] The Petitioner does not pursue on appeal its claim below that the Beneficiary also meets this criterion based upon his membership in the Strategic Consortium of Intelligence Professionals.

[7] We note that G-P-G-'s first, foreign language letter is unsigned and therefore has limited credibility and evidentiary value.

[8] *See also* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2)(appendix).

Regarding the CFBACC, the Petitioner submitted the Beneficiary's membership certificate, and a letter from the association's president, who indicates that the Beneficiary was "onboarded" in 2023 as "a Committee Member to play the Digital Marketing roles at CFBACC." She provides that he "has impacted several Brazilian entrepreneur groups in the region delivering guidance in his field."

The record does not contain evidence (such as bylaws or rules of admission) showing that CFBACC requires outstanding achievements of its members or committee members as judged by recognized national or international experts in the Beneficiary's field. The Petitioner cannot meet the plain language of this evidentiary criterion by submitting a copy of the Beneficiary's membership certificate in the association. While the Petitioner has submitted a letter from CFBACC's president, the letter does not mention the requirements for membership in the organization, and, therefore, does not establish that membership represents outstanding achievements as judged by recognized national or international experts.

Further, the Petitioner asserts on appeal, under the heading entitled "Appeal To The Comparable Evidence," that the recommendation letters from C-G and D-H- "provide a perspective on his reputation beyond . . . memberships." Again, because the Petitioner did not articulate a comparable evidence claim of eligibility under one or more of the criteria at 8 C.F.R. § 214.2(o)(3)(iii) at initial filing, or in response to the Director's RFE, we will not consider this basis as it was not presented before the Director. *See Soriano*, 19 I&N Dec. at 766; *see also Obaigbena*, 19 I&N Dec. at 533.

For the reasons discussed above, the Petitioner did not demonstrate the Beneficiary's eligibility for this criterion.

> *Published material in professional or major trade publications or other major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*).

The Petitioner claims the Beneficiary's eligibility for this criterion based on a 2014 article entitled, [redacted] published in *Jornal Estado de* [redacted] In order to fulfill this criterion, the Petitioner must demonstrate published material about the Beneficiary in professional or major trade publications or other major media, as well as the title, date, and author of the material.[9] As noted by the Director, the article is not about the Beneficiary relating to his work but is about the importance of mentoring for startup companies, "to overcome difficulties, professionalize the company and make them progress." It provides several examples of mentoring, including the Beneficiary being mentored one of his engineering clients, and includes an interview on the topic with business consultant and angel investor J-K-. Because the Petitioner did not show the article qualifies as published material about the Beneficiary we need not make a determination relating to the standing of the publication.[10]

[9] *See also* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2)(appendix).

[10] *See* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2)(appendix) (reflecting that 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)).

In addition, the Petitioner submitted an article about the Beneficiary published in [redacted] 2023 in the Brazilian newspaper *Nossa Gente*, subsequent to the filing of the petition in June 2023. As the Director noted, the Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Further, the Petitioner submitted articles authored by the Beneficiary to satisfy this criterion. [11] The plain language of the regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*) requires that the published material be "about" the Beneficiary, relating to his work. The self-authored articles are only about his work, not articles about him relating to his work. *Cf., Negro-Plumpe v. Okin,* 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor).[12]

Accordingly, the Petitioner did not show that the Beneficiary fulfills this criterion.

> *Evidence of the alien's participation on a panel, or individually as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*4*).

The Petitioner asserts that the Beneficiary meets this criterion "as a judge" of events at the Brazilian [redacted] Brazil [redacted] The Petitioner's initial evidence included a letter thanking the Beneficiary for accepting the invitation to mentor the startups participating in the Incubator of Projects Program at the [redacted] School of Business at [redacted] In addition, the Petitioner submitted two letter from A-R- of [redacted] for Startups, who states that the Beneficiary "was a mentor in several of our programs, such as mentoring for technology startups."[13] Further, it provided photographs of the Beneficiary's 2018 lecture, "Development of Applications Practice" for [redacted] Mobile Marketing class."

Within the Petitioner's RFE response, it included the Beneficiary's statement that for the Incubator of Projects Program, he applied his technology and business knowledge "to guide and support promising entrepreneurs on their journeys." For example, for the startup project [redacted] he provided "insights" and "guidance" on issues related to its "business model, technological development, and the integration between the marketplace and the SAAS platform." For the startup [redacted] he provided "feedback" and "guidance" on "refining the business model, developing the platform, and validating the proposal." In addition, the Beneficiary stated he participated in the "2019 1st semester Bootcamp of the [redacted] and on "11/09/2022 – Mentoring for the Silver Startup Program [redacted] program" for "entrepreneurs over 50 years old."

The record includes a participation certificate indicating the Beneficiary participated as a volunteer mentor in the 11th Project Incubator Program at the [redacted] School of Business

[11] Although these publications are not relevant to this criterion, such evidence may be considered as it relates to the significance of a beneficiary's contributions and scholarly articles, as well as whether they have the requisite sustained acclaim and have established that they have reached the very top of their field.

[12] *See also* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2) (appendix) (providing that published material that includes only a brief citation or passing reference to the beneficiary's work is not "about" the beneficiary, relating to the beneficiary's work in the field, as required under this criterion).

[13] We note that A-R-'s first foreign language letter is unsigned and therefore has limited credibility and evidentiary value.

held from October 2020 to April 2021, and that "[t]hroughout the program, he dedicated 4 hours of online mentoring in order to support development of startups participating in the program." The Petitioner also provided a certificate from [redacted] stating that the Beneficiary "[p]articipated as a Mentor in the Bootcamp of the Startup Program – SO in the 1st semester of 2019." Further, the Petitioner's RFE response contained a copy of the Beneficiary's slideshow presentation for "FAIR OF Entrepreneur [redacted] entitled "How to use applications in your business!"

Upon review, the record does not include documentary evidence to corroborate the Beneficiary's statement regarding his role "as a judge." It is not apparent from the submitted documentation that the Beneficiary was invited to serve as a judge or jury panel member for the above [redacted] Project Incubator Program Bootcamp or Bootcamp of the Startup Program events in those years. Rather, according to the above descriptions, his participation in the programs was strictly as a mentor involved in evaluating the students' work. As the plain language of this criterion requires evidence of the Beneficiary's "participation… as a judge," evidence of working as a mentor who evaluates students as a part of that role does not meet this requirement. Here, the record lacks specificity and detail of the Beneficiary's role with the claimed [redacted] Project Incubator Program Bootcamp and Bootcamp of the Startup Program events.

Accordingly, we find that this evidence does not sufficiently establish the Beneficiary's qualification under this criterion.

> *Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*).

Analysis under this criterion focuses on whether the beneficiary's original work constitutes major, significant contributions in the field.[14] The Petitioner asserts the submission of testimonial letters established the Beneficiary's contributions of major significance. In its initial submission it argued his achievements "express his consistent service to a large community of companies of distinct reputation." Within its RFE response and on appeal, the Petitioner maintains that the Beneficiary's digital innovation, shown in his development of several applications and platforms, contributed to the growth of various business. On appeal, it references recommendations letters it submitted from two of the Beneficiary's colleagues, M-M-M- and C-G-.[15]

Although the letters highly praise the Beneficiary for his work for various companies, they do not identify the Beneficiary's contributions in the field, and explain how they have been majorly significant in the field. Instead, the letters make broad claims regarding his work. For instance, in two letters, M-M-M-, a digital operations lead, states that between 2000 and 2003 he worked with the Beneficiary at [redacted] and describes the Beneficiary's software development and creation of a web-based banking system as "a critical development for [redacted] and the financial sector in Brazil as a whole" as "it helped facilitate billions of dollars' worth of transactions" and met mandatory deadlines set by the [redacted] C-G-, an information technology executive and the Beneficiary's manager at the [redacted] bookstore chain, relates

[14] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2)(appendix).

[15] While we discuss a sampling of letters, we have reviewed and considered each one. We note that the majority of the letters, including the first, foreign language letters of M-M-M- and C-G-, are unsigned and therefore have limited credibility and evidentiary value.

that he developed a new e-commerce platform and "helped create . . . what later became the company's digital platform for sourcing movies and e-books to the public, the very first in Latin America." Further, M-V-, the technology coordinator of [redacted] which maintains platforms for private highway operators, says the Beneficiary's [redacted] roadside assistance mobile app "has been responsible for hundreds of SOS calls" and "has become crucial on the highways of Brazil."

As evidenced above, the letters reflect how much his employers and clients valued the Beneficiary's contributions to their companies. However, the letters do not explain what the Beneficiary has contributed in the field, and how those contributions are considered to be of major significance in the field. In addition, the letters make general claims and point to the Beneficiary's impact on the individual companies rather than on the overall field.[16] Moreover, the letters do not articulate how the Beneficiary's performances in his roles at [redacted] and with [redacted] somehow influenced or affected the field in a significantly major manner.

Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance.[17] Submitted letters should specifically describe the person's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise.[18] In this case, the letters lack specific, detailed information explaining how the Beneficiary has made original contributions of major significance. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Moreover, on appeal the Petitioner states that the advisory opinion letter from D-H-, an associate professor of computer science and information systems, which was not discussed by the Director, "outlines [the Beneficiary's] exceptional contributions" and "asserts that his role requires an individual of extraordinary ability, directly aligning with the O-1A visa requirements." The letter from D-H- satisfies the Petitioner's burden to submit a written advisory opinion from an appropriate consulting entity. 8 C.F.R. § 214.2(o)(2)(ii)(D). The regulations also require evidence satisfying the regulatory criteria under 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B). As discussed above, the Petitioner has not provided such evidence. Moreover, D-H- does not detail what particular evidence he reviewed in issuing his letter.[19] Regardless, consultations are advisory and are not binding on us. 8 C.F.R. § 214.2(o)(5)(i)(D).
It remains the Petitioner's burden to provide the specific documentation mandated by the regulations in addition to the consultation.

Further, the Petitioner argued that the Beneficiary's lectures at [redacted] and his publications "contributed to entrepreneurial growth" by having disseminated valuable knowledge and fostered skill development. Evidence that the beneficiary's work was funded, patented, or published, while

[16] *Cf., Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013) (upholding a finding that a ballroom dancer had not met a similar criterion in the immigrant classification for individuals of extraordinary ability under 8 C.F.R. § 204.5(h)(3)(v) because she did not corroborate her impact in the field as a whole).
[17] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2)(appendix).
[18] *Id.*
[19] We note the advisory opinion and prior counsel's RFE response contain many instances of similar language, raising questions regarding whether the advisory opinion letter reflects the professional opinion of D-H-.

potentially demonstrating the work's originality, will not necessarily establish, on its own, the work is of major significance in the field.[20] Here, the Petitioner did not show how the publication of his work automatically demonstrates the work to be original contributions of major significance.

Finally, the Petitioner asserts on appeal, under the heading entitled "Appeal To The Comparable Evidence," that "[the Beneficiary's] creation of [redacted] is an "achievement[] that traditional O-1A criteria may not fully recognize" and his "role in integrating complex IT solutions across different industries . . . demonstrates a breadth of impact and depth of expertise that traditional benchmarks may fail to capture." However, as stated, because the Petitioner did not articulate a comparable evidence claim of eligibility under one or more of the criteria at 8 C.F.R. § 214.2(o)(3)(iii) at initial filing, or in response to the Director's RFE, we will not consider this basis as it was not presented before the Director. *See Soriano*, 19 I&N Dec. at 766; *see also Obaigbena*, 19 I&N Dec. at 533.

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown the Beneficiary has made original contributions of major significance in the field.

III. CONCLUSION

The Petitioner did not establish that the Beneficiary satisfies the criteria relating to awards, membership, published material, judging, or original contributions. Although the Petitioner maintains the Beneficiary's eligibility for two further criteria on appeal, pertaining to scholarly articles and employment in a critical or essential capacity under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*6*) and (*7*), we need not reach these grounds, because it cannot fulfill the initial evidentiary requirement of at least three criteria under 8 C.F.R. § 214.2(o)(3)(iii)(B). We also need not provide a totality determination to establish whether the Beneficiary has sustained national or international acclaim and is one of the small percentage who has arisen to the very top of the field. *See* section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii) and (iii).[21] Accordingly, we reserve these issues.[22] Consequently, the Petitioner has not established the Beneficiary's eligibility for the O-1 visa classification as an individual 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.

[20] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(C)(2)(appendix).
[21] *See also* 2 *USCIS Policy Manual*, *supra*, at M.4(B).
[22] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where applicants do not otherwise meet their burden of proof).