U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40137783

Date: OCT. 28, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks classification as an individual of extraordinary ability in business. *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.

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not establish, as required, that he met at least three of the ten initial evidentiary criteria for this immigrant classification. We dismissed a subsequent appeal. Although we concluded that the Petitioner met the initial evidence requirements by satisfying three evidentiary criteria, we determined the record did not demonstrate that he has achieved sustained national or international acclaim and is among that small percentage of individuals at the very top of his field. The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the motions.

I. LAW

A. The Extraordinary Ability Classification

An individual is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the country to continue working in the area of extraordinary ability; and their entry into the United States would substantially benefit the country. The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can provide evidence of a one-time achievement (that is, a major, internationally recognized award). If a petitioner does not submit this evidence, then they must provide documentation that they meet 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 demonstrates that they meet these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that they are 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 Amin v. Mayorkas,* 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step analysis of extraordinary ability "consistent with the governing statute and regulation").

B. Motion Requirements

A motion to reconsider must state the reasons for reconsideration; be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy; and establish that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

II. ANALYSIS

The issues before us on motion are (1) whether the Petitioner has demonstrated our decision to dismiss his appeal was based on a misapplication of law or policy and was incorrect at the time we issued the decision; and (2) whether he has submitted new facts, supported by documentary evidence, to warrant reopening.

Although the Petitioner has stated reasons for reconsideration, the record does not establish that our appellate decision was based on an incorrect application of law or policy at the time we issued our decision. Nor has the Petitioner offered new facts or evidence relevant to our latest decision establishing his eligibility for the classification sought. Accordingly, we will dismiss both motions for the reasons discussed below.

A. The AAO's Decision

In our decision dismissing the Petitioner's appeal, we agreed with the Director's determination that the Petitioner satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (viii) by submitting evidence that he had participated as a judge of the work of others in his field and served in a leading or critical role for organizations with a distinguished reputation. In addition, contrary to the Director's conclusion, we determined that the Petitioner satisfied a third criterion by providing evidence he has received nationally recognized awards for excellence in his field under 8 C.F.R. § 204.5(h)(3)(i). Accordingly,

we proceeded to a final merits determination, wherein we concluded that the totality of the evidence did not show the Petitioner had achieved sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor.

Our appellate decision acknowledged that the Petitioner's evidence showed he "earned national acclaim in business in Kyrgyzstan from 2012 to 2021." In concluding the Petitioner did not demonstrate the required sustained acclaim, we stated:

> The record does not establish that the Petitioner sustained his acclaim after he moved to the United States in 2021 and until this petition was filed in 2024. The Petitioner submitted evidence that he is the President of the [redacted] owns a company and works with other business organizations. Although he has continued to work in his field, the record does not demonstrate that the Petitioner has received national or international recognition for his business achievements from 2021 until 2024. The Petitioner submitted evidence that he was included in the 2024 edition of [redacted] and an article from the *Economist* . . . which discusses his inclusion in this publication and his prior career accomplishments.[1] The record does not indicate that the selection criteria and judging process for [redacted] are reflective of a publication featuring the small percentage of individuals at the very top of their fields. The record also does not establish that the Petitioner's achievements between 2021 and 2024 have been recognized in his field through extensive documentation.

B. Motion to Reconsider

On motion, the Petitioner contends that we misapplied "the legal standard for sustained national or international acclaim" and "denied the petition on the sole basis that the Petitioner did not demonstrate sustained national or international acclaim during the period 2021- 2024." The Petitioner's sustained acclaim, however, was not the sole basis for our dismissal. We also stated the Petitioner did not establish that his achievements "have been recognized in his field through extensive documentation" and that "he is among the small percentage at the very top of his field."[2] The Petitioner's brief provided in support of the motion does not address how these determinations were based on an incorrect application of law or USCIS policy.

The Petitioner argues that the regulation at 8 C.F.R. § 204.5(h)(3) "does not impose any requirement that acclaim must continue up to the precise date of filing. Nor does it require a petitioner to duplicate prior recognition after relocating to the United States." Our decision explained that "eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971." We indicated that the Petitioner had not "sustained his acclaim after he moved to the United States in 2021 and until this petition was filed in 2024."

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[1] The article in the *Economist*, a Kyrgyzstan publication (https://economist.kg), is dated [redacted] 2024. According to a website analysis the Petitioner presented from Similarweb, this online publication has a "country rank" of 934th in Kyrgyzstan and an "industry rank" of 8,980th based on its 2024 website traffic data. The Petitioner has not demonstrated that the *Economist* is a form of major media in Kyrgyzstan or any other country, or that coverage in this publication is indicative of national or international acclaim at the very top of his field.

[2] *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(2).

The *USCIS Policy Manual* provides that in determining whether a petitioner "has enjoyed 'sustained' national or international acclaim, such acclaim must be maintained."[3] *See generally* 6 *USCIS Policy Manual* F.2(A)(1), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2. If a person was recognized for a particular achievement, we determine whether the person continues to maintain a comparable level of acclaim in the field of expertise since the person was originally afforded that recognition. *Id.* A person may, for example, have achieved national or international acclaim in the past but then failed to maintain a comparable level of acclaim thereafter. *Id.* Here, the Petitioner has not shown that our appellate decision misapplied relevant law, regulation, or USCIS policy in requiring him to demonstrate sustained national or international acclaim.

The Petitioner also points to *Matter of Price*, 20 I&N Dec. 953 (Assoc. Comm'r 1994) and asserts that the "past achievements and earnings" of the petitioner in that case (a professional golfer) "were sufficient to demonstrate sustained acclaim, even though they were not contemporaneous with the date of filing." We disagree with the Petitioner's claim that the *Price* petitioner's achievements were not contemporaneous with the date of filing. The *Price* decision states that it was "originally entered on March 27, 1992." *Id.* at 956 n.1. The petitioner in *Price* won the internationally recognized 1991 Canadian Open and collected high earnings in 1991 totaling $714,389. *Id.* at 953. Both of these significant achievements occurred proximate to the petition's filing date.[4] In the present matter, the Petitioner has not established that the facts of his petition are analogous to those in the *Price* precedent decision.

Furthermore, the Petitioner states that our appellate decision "imposed an overly restrictive interpretation of 'sustained acclaim' that contradicts both the regulatory text and the reasoning" in *Kazarian v. USCIS*, 596 F.3d at 1115. In *Kazarian*, the court indicated that once the initial evidence requirements are met, we then consider the totality of the material provided in a final merits determination and assess whether the evidence demonstrates a level of expertise indicating that the individual is one of that small percentage who has risen to the very top of the field of endeavor, that the alien has sustained national or international acclaim, and that their achievements have been recognized in the field of expertise. *Id.* at 1119-20.[5] Our decision followed the *Kazarian* framework, considered the totality of the evidence (including documentation of his accomplishments from both before and after 2021), and determined that the Petitioner had not demonstrated his sustained national

[3] According to *Black's Law Dictionary* (11th ed. 2019), the definition of sustain is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time."

[4] The *Price* decision further stated that since the initial decision was originally rendered, the petitioner had 17 victories, including PGA Championships in 1992 and 1994, as well as the 1994 Bell Canadian Open and 1994 British Open. He was the first to win the British Open and a PGA Championship in the same year since Walter Hagen in 1924. *Golf Digest* named him its Byron Nelson Award winner in 1993 and 1994, as well as the 1994 World Player of the Year. Additionally, after 1992, the petitioner achieved 48 top-ten finishes in 85 tournaments. The petitioner also achieved distinction as PGA Tour Player of the Year (1993 & 1994), PGA Player of the Year (1993 & 1994), Golf Writers Association of America Male Player of the Year (1993), Jim Thorpe Men's Golfer of the Year (1993), ESPN Golfer of the Year (1993), and Arnold Palmer Leading Money Winner (1993 & 1994). In 1993, he received the Vardon Trophy. According to SONY Rankings at the time, the petitioner was ranked number one in professional golf. "By any standard," reported *The Washington Times*, August 15, 1994, at B1, "[the petitioner] is the world's best golfer." Similarly, in the cover story for its January 1995 issue, *Golf Digest* labeled him, "The best player on the planet." *Id.* at 956 n.3. These achievements undoubtably show the *Price* petitioner's sustained acclaim.

[5] The court discussed 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. *Id.*

or international acclaim and that he is one of that small percentage who has risen to the very top of the field of endeavor.[6] The Petitioner does not point to specific language in *Kazarian* to support his claim that we "committed legal error by evaluating sustained acclaim under an unreasonably narrow temporal lens."

In addition, the Petitioner points to a non-precedent decision from 2020 in which we concluded that the petitioner had provided clear evidence that she is coming to the United States to continue to work in the area of expertise as required by the regulation at 8 C.F.R. § 204.5(h)(5).[7] The Petitioner does not explain how this non-precedent decision shows that we erred in finding that he had not demonstrated sustained national or internation acclaim in his field. Further, the Petitioner offers no arguments or evidence to establish that the facts of the present matter are analogous to those in our 2020 non-precedent decision. Moreover, while 8 C.F.R. § 103.3(c) provides that precedent decisions are binding on all USCIS employees in the administration of the Act, unpublished decisions are not similarly binding.

The Petitioner also argues that his "recognized leadership, impact, and honors from 2012 to 2021 establish acclaim that persists and remains valid at the time of filing - especially in a cumulative and enduring field like business." The record shows the Petitioner attained some degree of acclaim in Kyrgyzstan for his work on business legislation, the establishment of the [redacted] and the [redacted] but he has not shown that these achievements set him apart from other business executives or otherwise place him among that small percentage who have risen to the very top of his field.

Regarding his salary, the Petitioner provided data from the Labor and Employment Statistics Department (LESD) indicating that as Executive Director of the [redacted], he earned a salary over eight times the average salary of chief executives of non-profit associations in Kyrgyzstan. While serving as Vice President at [redacted] he earned a salary over 14 times the average salary of chief executives of mining companies in Kyrgyzstan based on the same LESD data. The record, however, does not include information showing the survey size or validity of the LESD data. Accordingly, the Petitioner has not demonstrated that his earnings place him among that small percentage of executives who have risen to the very top of the business field.

The Petitioner also served as Executive Director of the [redacted] in the Kyrgyz Republic. Although the Petitioner has performed in leading roles for the [redacted] (Kyrgyzstan), the [redacted] (Kyrgyzstan), and the [redacted] he has not shown that his employment in these roles is reflective of, or has resulted in, widespread acclaim from his field or that he is considered to be at the very top of the field of endeavor.

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[6] *See also Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (holding plaintiff did not demonstrate sustained national or international acclaim, recognition in the field of expertise, and that they had risen to the very top of the field).

[7] The Petitioner's intent to continue working in his area of expertise in the United States was not a basis for dismissal in our appellate decision.

As it relates to media coverage of the Petitioner, the record includes three articles in the *Economist* (2020, 2021, and 2024) and one article in *Business News* (2015), but the website traffic data he provided from Similarweb does not show that these publications qualify as major media in Kyrgyzstan or any other country.[8] The Petitioner also submitted part of a 2017 article in *RIA Novosti*, entitled, [redacted] but it is about the teachings of Fethullah Gulen and only mentions the Petitioner in passing. He also presented four articles in *24KG* dated [redacted] 2012, [redacted] 2012, [redacted] 2015, and [redacted] 2019. These articles in *24KG* mainly quote the Petitioner's statements regarding the impact of legislation, tariffs, and other governmental actions, but they are not about him and his accomplishments.[9] The Petitioner has not shown that the volume and type of media coverage he has received since 2012 demonstrate his sustained national acclaim or place him among that small percentage at the very top of his field.

In 2013, 2016, and 2017, the Petitioner was a judge of the Quality Awards of the Kyrgyz Republic, but he did not show that such judging capability is indicative of national or international acclaim in his field. The Petitioner did not demonstrate, for instance, that he garnered wide attention from the field based on his service on the judging committees. Nor has he otherwise shown that he distinguished himself from other executives in the field based on his judging service, gaining national or international attention or placing him among the upper echelon in his field.

While two government ministries in Kyrgyzstan recognized the Petitioner with awards in 2013 and 2016, the record indicates that his awards only garnered the attention of a publication of the [redacted] (Kyrgyzstan).[10] The Petitioner has not shown that his receipt of the two awards attracted significant media attention or were otherwise indicative of his national or international acclaim. Nor has the Petitioner shown that either of his awards reflects a level of recognition that places him in the small percentage at the very top of the field.

Based on the foregoing discussion, the Petitioner has not demonstrated that we misapplied law or USCIS policy in our prior decision dismissing his appeal, nor has he established that our decision was incorrect based on the evidence in the record at the time of our decision. *See* 8 C.F.R. § 103.5(a)(3). Accordingly, we will dismiss the motion to reconsider.

C. Motion to Reopen

The Petitioner argues that his motion "is supported by substantial evidence already of record that establishes that he possesses extraordinary ability in business, that he has garnered national and international claim, and that his sustained contributions have continued to the date of filing and beyond." Regarding his motion to reopen, it does not offer new facts and is not supported by any documentary evidence. Because the Petitioner has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision.

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[8] For example, the Petitioner presented information from Similarweb indicating that *Business News* has a "country rank" of 5,077th in Kyrgyzstan and an "industry rank" of 51,987th based on its 2024 website traffic data.

[9] *See Gadhave v. Thompson*, No. 3:21-CV-2938-D, 2023 WL 6931334, at *3-4 (N.D. Tex. Oct. 19, 2023) (upholding published material must be specifically about the applicant and focus on his personal work in the relevant field, not merely relate to the applicant's work, mention his name, or include his photo).

[10] The Petitioner did not offer evidence indicating the circulation of the [redacted] publication.

III. CONCLUSION

Although there is no definitive time frame on what constitutes "sustained," the record here does not demonstrate the Petitioner's achievements to date are indicative of the required sustained national or international acclaim or that he has achieved 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) of the Act.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than 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. at 954. The Petitioner's evidence confirms that he is respected among his peers and that he has gained recognition for his achievements outside of the organizations that have employed him. However, considering the full measure of the Petitioner's demonstrated achievements, the level of acclaim he has documented, and the extent to which his achievements have been recognized in the field over time, he has not demonstrated his eligibility for classification as an individual of extraordinary ability. He has not submitted extensive documentation exhibiting that he has attained a level of expertise placing him among that small percentage who have risen to the very top of the field of endeavor.

The Petitioner has not offered additional evidence or new facts in support of the motion to reopen to establish his eligibility for classification as an individual of extraordinary ability. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy, or that it was incorrect at the time we issued our decision. Therefore, the motions will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider 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.