U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43888520

Date: SEP. 03, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, an automotive engineer, seeks first preference immigrant classification as an individual 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.

USCIS denied the petition, concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that he met at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). The matter is now before us on appeal. 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 conclude that USCIS did not properly consider the evidence. We will therefore withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

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. The alien must seek to enter the United States to continue work in the area of extraordinary ability and the evidence must show that the alien's entry into the United States will substantially benefit the United States.

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 demonstrate international recognition of a beneficiary's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Alternatively, the petitioner can submit

evidence that the alien beneficiary 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 the initial evidence requirements have been met, 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 their 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 (5th Cir. 2022); *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 is an engineer and entrepreneur who intends to implement his innovation projects in the United States. As the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must demonstrate that he meets the initial evidence requirements by satisfying at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claimed to have satisfied the following criteria: lesser awards, memberships, original contributions, authorship of scholarly articles, artistic exhibitions, leading or critical role, and high salary. *See* 8 C.F.R. § 204.5(h)(3)(i)-(ii), (v)–(ix).

USCIS determined that the Petitioner met the awards criterion at 8 C.F.R. § 204.5(h)(3)(i) but did not meet the remaining criteria. On appeal, the Petitioner asserts that USCIS did not adequately evaluate the evidence in the record. He claims that USCIS evaluated evidence under a criterion he did not claim, did not address a criterion he claimed, and did not address comparable evidence submitted for some of the criteria.[1] The Petitioner also claims that USCIS assessed some of the criteria under evidence submitted in a previously denied petition and applied consideration of sustained national or international acclaim when evaluating the initial criteria.

Upon review, we agree that USCIS did not adequately address the Petitioner's specific claims and evidence. While USCIS is not required to provide a detailed discussion of every piece of evidence the Petitioner submitted, the decision here does not convey that it adequately considered all relevant evidence in the record.

For example, USCIS determined that the Petitioner did not satisfy the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii). However, the Petitioner did not claim to meet that criterion. In addition, the decision refers to evidence not contained in the record, such as contracts with companies he hired to provide services related to his business venture. The decision also refers to all of his patents as "provisional" when the record includes several registered patents. Further, as the Petitioner states on appeal, USCIS did not address certain evidence, such as evidence of several months of his income and comparative salary data submitted for the high-salary criterion. Moreover, USCIS did not provide a

[1] *See* 8 C.F.R. § 204.5(h)(4).

clear analysis of whether his comparable evidence met the claimed criteria at 8 C.F.R. § 204.5(h)(3)(vi) and (vii). USCIS also conflated the authorship criterion with the display criterion. Finally, USCIS misapplied the consideration of whether an individual has sustained national or international acclaim—the second step of the two-part review framework under *Kazarian*—to an evaluation of whether the Petitioner satisfied initial evidentiary criteria at the first step.

Because USCIS's decision does not adequately analyze the facts of the matter and apply the regulatory standards, we will remand the matter for entry of a new decision. While the evidence of record may ultimately be insufficient to demonstrate the Petitioner's eligibility for the requested classification, USCIS' decision did not adequately address the submitted evidence in denying the petition. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal).

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.