U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39774100

Date: SEP. 29, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a chemical biologist, seeks 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.

SCOPS denied the petition, concluding the record did not establish the Petitioner qualifies as an individual of extraordinary ability either as the recipient of a major, internationally recognized award, or 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 will dismiss the appeal.

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). On appeal, he submits a brief and maintains he meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (v), and (viii) for receipt of lesser nationally or internationally recognized prizes or awards for excellence in their field; and, leading or critical role for distinguished organizations or establishments.[1]

We adopt and affirm SCOPS's decision. See *Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); see also *Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted"). On appeal,

[1] The brief contains no evidence or arguments addressing the Director's determination for the criteria at 8 C.F.R. § 204.5(h)(3)(ii) for membership in associations in the field for which classification is sought, which require outstanding achievements of their members. Therefore, we consider this issue to be abandoned. *See Matter of R-A-M-*. 25 I&N Dec. 657. 658 n.2 (BIA 2012) (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived). *See also Sepulveda v. U.S. Att'v Gen.*, 401 F.3d 1226. 1228 n. 2 (11th Cir. 2005), citing *United States v. Cunningham*, 161 F.3d 1343, 1344 (11th Cir. 1998); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (plaintiff's claims were abandoned as he failed to raise them on appeal to the AAO).

the Petitioner has not identified a specific prejudicial error related to these criteria but rather broadly disagrees with SCOPS's conclusions of his eligibility under them. Moreover, he has not meaningfully addressed the evidentiary deficiencies SCOPS identified. As such, he has not overcome SCOPS's determination under these criteria.

In relation to lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor at 8 C.F.R. § 204.5(h)(3)(i), the Petitioner asserts he satisfies this criterion based on receipt of an outstanding dissertation award, several research awards, travel grants and fellowships at [redacted] as well as a [redacted] Postdoctoral Fellowship.[2] However, the record does not demonstrate that the recognition at [redacted] for his dissertation, research, and fellowship awards are nationally or internationally recognized prizes or awards. While the Petitioner was awarded a post-doctoral fellowship from [redacted] it is noted that, unlike awards such as the Nobel Prize which recognize demonstrated past achievements, grants and scholarships are often bestowed in response to applications by prospective recipients, who describe the research which they seek to undertake. Grants and scholarships generally support future research rather than recognized prior achievements. Furthermore, a substantial amount of scientific research is funded by research grants from a variety of sources. It cannot be argued that grant funding places a given project at the pinnacle of the field. Therefore, we agree with SCOPS that this requirement has not been met.

Likewise, the Petitioner asserts he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(v), calling for evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. By itself, evidence of patents or publication may establish originality, but not necessarily major significance. Evidence of major significance might include documentation showing that a person's published research has been heavily cited and provoked widespread commentary, or that a person's patented technology has attracted significant attention or commercialization. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context, particularly when the record includes corroborating documentation. *Id.* While the Petitioner demonstrated his record of publication, including first-authored and co-first-authored[3] articles, that his patents are used by one health technology company, [redacted] and submitted letters of reference from professors in the field, we agree that he has not met his burden of proof to establish that his work is of major significance in the field.

For example, the Petitioner states in his brief that two articles in a news publication called American Peptide Society have reported on two of the Petitioner's "Co-First-authored contributions," demonstrating his contributions of major significance in his field. However, the articles' sub-headlines are [redacted] and state that "researchers at [redacted] led by Professor M-R-[4]" created the development—the research was not led by the Petitioner. In addition, the Petitioner's reference letters do not explain the relevance of the number of citations to the entirety of the Petitioner's published work as a measure of the contribution made by the Petitioner's specific research. Moreover, Professor M-R- compared the Petitioner favorably to the many exceptional

[2] On appeal, the Petitioner calls this a [redacted] Post-Doctoral Award, though the record evidence shows it is a post-doctoral fellowship.

[3] The Petitioner refers to articles he authored with one or more authors who are credited to have contributed equally as "co-first-authored."

[4] We use initials to protect privacy.

students she has encountered and stated his contributions led to significantly advanced tools available to scientists within the chemical biology field. Although new tools are now available, Professor M-R- stated that only one company had licensed it to date. Thus, the reference letter does not reflect the Petitioner's contributions are of major significance in the field.

Finally, on appeal, the Petitioner states that he played a leading or critical role as an instructor for the [redacted] program at the University. To qualify under this criterion, a petitioner must show that they performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. For a leading role, USCIS looks at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof, s*ee generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). A title, with appropriate matching duties, can help to establish that a role is (or was), in fact, leading. *Id.* For a critical role, USCIS looks at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *Id.*

In a reference letter, one of the Petitioner's advisors stated that the [redacted] program plays a vital role in [redacted] mission by recruiting and training first and second year undergraduate students in scientific research. The [redacted] program relies on graduate students as primary instructors to bridge the gap between faculty research and undergraduate training. Although [redacted] may be a critical program at the university, the Petitioner has not shown that he has played a critical or leading role at [redacted] or the university. He was one of multiple professors and graduate students assigned to teaching undergraduates. The record has a description of [redacted] listing 17 "recent professors" teaching the course, including the Petitioner and his advisor, Professor B-W-.

The Petitioner asserts that SCOPS did not address a second asserted leading or critical role, i.e. lead lab instructional specialist at [redacted] from July 2024 to December 2024. On appeal, the Petitioner asserts that the word "lead" in the job title "lead lab instructional specialist" meets his burden of proof. The Petitioner provided the offer letter for the position setting forth the responsibilities and salary, but this letter does not corroborate that the position of lead lab specialist is a leading or critical role in the department of chemistry, notwithstanding the job title. Rather, the proffered letter is merely a job offer listing job responsibilities and salary, inviting the Petitioner to join the research group and offering "ample opportunities for professional growth and personal satisfaction." Accordingly, we agree that the requirements of this criterion have not been met.

The Petitioner claimed eligibility for six criteria. He did not establish eligibility for four criteria. As such, he cannot meet the required three criteria necessary to progress to a final merits determination. As the identified reasons for dismissal are dispositive of the appeal, we decline to reach and hereby reserve arguments concerning the remaining criteria. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 527 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten lesser criteria. As a result, we need not provide the type

of final merits determination referenced in Kazarian, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. U.S. Citizenship and Immigration Services 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. 953, 954 (Assoc. Comm'r 1994). Here, the record as a whole does not demonstrate a level of recognition that indicates the required sustained national or international acclaim or demonstrates 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. Moreover, the record does not otherwise demonstrate that the Petitioner is one of the small percentage who has risen to the very top of the field of endeavor. See section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

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.