U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37617522

Date: APR. 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an elementary school teacher, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of the achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner met one of ten initial evidentiary requirements – two less than needed for a final merits determination. On appeal, the Petitioner contends that she met three additional evidentiary criteria by submitting documentation of her:

- Original contributions of major significance in her field;
- Authorship of scholarly articles in the field; and
- Commandment of a high salary or significantly high remuneration relative to others in the field.

8 C.F.R. § 204.5(h)(3)(v), (vi), (ix).

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that she has met the scholarly article requirement. But, because she has not satisfied the requisite number of evidentiary criteria, we will dismiss the appeal.[1]

[1] The Petitioner's Form I-290B, Notice of Appeal or Motion, indicated that she would submit a written brief, additional evidence, or both within 30 days of the appeal's filing. *See* 8 C.F.R. § 103.3(a)(2)(vii). To date, we have not received any further submissions. We therefore decide the appeal based only on the materials that accompanied the Form I-290B.

I. LAW

To qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the country as a permanent resident.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a petitioner received "a major, international recognized award," they must satisfy at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3).[2]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, USCIS must make a final merits determination. To merit approval, the record – as a whole – must establish a petitioner's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding U.S. Citizenship and Immigration Services' (USCIS') two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner and Her Field

The record shows that the Petitioner, a Philippine native and citizen, earned a bachelor of elementary education in mathematics in her home country and is pursuing a master of arts degree in English language teaching. She taught elementary school in the Philippines from 2014 to 2019. Since 2019, she has taught third, fourth, and fifth grades on a [redacted] in the United States, where schools have had difficulty attracting teachers and where she seeks to continue teaching.

B. The Evidentiary Criteria

The record does not indicate – nor does the Petitioner claim – her receipt of a major internationally recognized award. She must therefore meet at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports SCOPS' finding that the Petitioner submitted evidence of her participation as a judge of others' work in her field. *See* 8 C.F.R. § 204.5(h)(3)(iv). SCOPS found that she did not provide documentation of her: receipt of lesser nationally or internationally awards for excellence; membership in associations that require outstanding achievements; or performance in a leading or

[2] If an evidentiary criterion does not "readily apply" to a petitioner's occupation, they may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

critical role for organizations with distinguished reputations. *See* 8 C.F.R. § 204.5(h)(3)(i), (ii), (viii). On appeal, the Petitioner does not challenge those three findings. She has therefore effectively "waived" those requirements, and we will not review them. *See 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)).

We will now review SCOPS' findings regarding the other three evidentiary requirements that the Petitioner claims to have met. To satisfy these criteria, her evidence must objectively meet the parameters of the applicable regulatory descriptions. *See generally* 6 *USCIS Policy Manual* F.2(B). "[N]either USCIS nor [the] AAO may unilaterally impose novel substantive or evidentiary requirements beyond those set forth in 8 C.F.R. § 204.5." *Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010).

1. Original Contributions of Major Significance

This criterion requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v).

USCIS first determines whether a petitioner has made original contributions in their field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 5. If so, the Agency then determines whether the original contributions are of major significance in the field. *Id.*

The Petitioner submitted support letters from others in her field and information about her education-related activities. On appeal, she cites her contributions in the disciplines of science, technology, engineering, and mathematics (STEM), which she believes have had "lasting impact," especially in underrepresented communities like the [redacted]. She states that she: was one of only eight educators selected nationwide to create and implement STEM curricula focusing on engineering and health education; served as a mentor to new teachers in her state; and reviewed the state's curricula.

The Petitioner argues that "advancing STEM and health education have implications for national health priorities and workforce development" and that her work "demonstrates my ability to create solutions that extend beyond the classroom, impacting broader societal challenges." She contends that her mentoring "has contributed to improving educational quality, addressing teacher shortages, and ensuring professional development for future educators," which she says "is critical to national efforts to support and retain high-quality educators." She states that her contributions "directly support U.S. Department of Education priorities for equitable access to education and align with [digital inclusion] initiatives."

The Petitioner's contributions are admirable. In the context of petitions for national interest waivers in the employment-based, second-preference category, *see* section 203(b)(2)(B)(i) of the Act, we have found that STEM teaching "has substantial merit in relation to U.S. educational interests." *Matter of Dhanasar*, 26 I&N Dec. 884, 893 (AAO 2016). But, as SCOPS' found, the Petitioner has not demonstrated that her contributions had "major significance" in her field.

When determining whether a petitioner's contributions have major significance in a field, USCIS typically looks for:

- Objective documentary evidence of the significance of their contribution to the field;
- Documentary evidence that people throughout the field consider a petitioner's work important;
- Testimony or support letters from experts discussing a petitioner's contributions of major significance;
- Evidence that a petitioner's major significant contribution has provoked widespread commentary in the field or has been widely cited; and
- Evidence of the implementation of a petitioner's work by others.

Golani v. Allen, No. 22-10202, 2023 WL 4874767, at *4–5 (E.D. Mich. July 31, 2023).

The support letters describe the Petitioner as a talented, passionate, and devoted teacher. They indicate that she has improved students' reading and writing skills, provided on-going support to new teachers, raised awareness of the importance of public education, created a safe and welcoming school environment, and advocated for students' and educators' needs. The letters, however, do not explain the significance of the Petitioner's contributions to her broader field. Most of the letters are from educational professionals with whom she has worked.[3] The record lacks independent, objective evidence that her contributions have had major significance in her field. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 187-88 (D.N.J. 2021) (citations omitted) (stating that to demonstrate major significance, "the impact should extend beyond the petitioner's locality or a handful of participants in the field"); *Strategati, LLC v. Sessions*, No. 3:18-cv-01200-H-AGS, 2019 WL 2330181, at *6 (S.D. Cal. May 31, 2019) (citation omitted) (affirming USCIS' finding that major significance in the field "requires substantial influence beyond one's employers, clients, or customers.")

The Petitioner has not demonstrated that her contributions have had major significance in her field. We will therefore affirm SCOPS' finding regarding this evidentiary criterion.

2. Authorship of Scholarly Articles

To meet this requirement, a petitioner must submit "[e]vidence of the[ir] authorship of scholarly articles in the field, in professional or major trade publications or other major media." 8 C.F.R. § 204.5(h)(3)(vi).

USCIS first determines whether a petitioner wrote scholarly articles in their field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criteria 6. If so, the Agency then determines whether a publication qualifies as a professional publication, major trade publication, or major media publication. *Id.* Relevant factors include, for a professional journal, the intended audience and, for a major trade publication or major medium, a publication's relative circulation or readership. *Id.*

On appeal, the Petitioner contends that her co-authorship of a peer-reviewed, international research article satisfies this criterion. The record contains an abstract of the August 2023 article about distance learning changes during the COVID-19 pandemic and lists the Petitioner as a co-author. Online information about the journal that published the article identifies it as an international, peer-reviewed publication focusing on education, learning, and teaching. Its intended audience is teachers and other educational professionals.

[3] One of the six letters is from a priest in the Petitioner's community.

A preponderance of the evidence demonstrates that the Petitioner co-authored a scholarly article in her field in a professional publication. She therefore meets this evidentiary requirement. *See* 6 *USCIS Policy Manual* F.2(B) ("[A]lthough some of the regulatory language relating to evidence occasionally uses plurals, it is entirely possible that the presentation of a single piece of evidence in a specific evidentiary category may be sufficient.") We will therefore withdraw SCOPS' contrary finding.

3. Commandment of a High Salary or Significantly High Remuneration

This criterion requires "[e]vidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." 8 C.F.R. § 204.5(h)(3)(ix).

The Petitioner submitted a copy of her 2023 IRS Form W-2, Wage and Tax Statement, indicating that, as an elementary school teacher, she earned $79,166 that year. She also provided U.S. Bureau of Labor Statistics wage information showing that her salary exceeded the highest listed wage level for her occupation and geographic area in 2023: $69,730 a year. She therefore argues that her salary is high relative to others in her field.

But other evidence of record indicates that the Petitioner's salary is not as comparatively high. In response to SCOPS' request for additional evidence, she submitted U.S. Department of Labor Occupational Information Network (O*NET) information indicating that, in her geographic area in 2023, the top 10% of elementary school teachers earned at least $84,010 a year, more than the $79,166 she earned that year. Thus, this wage information does not establish that the Petitioner has a sufficiently "high salary" in relation to others in her field. *See Kinuthia v. Biden*, 702 F. Supp. 3d 5, 10 (D. Mass. 2023), *appeal docketed*, No. 23-2029 (1st Cir. Dec. 6, 2023) (affirming USCIS' decision that a petitioner's salary "was not comparatively high because his salary was below the 90th percentile").

The Petitioner also argues that her salary significantly exceeds those of elementary school teachers in her home country of the Philippines. Because she works and resides in the United States as only a temporary nonimmigrant, she contends that SCOPS should have considered wage data from her home country. But, as SCOPS found, USCIS policy requires comparison to foreign wages only when a petitioner works outside the United States. *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 9 ("Officers evaluate persons working outside of the United States based on the wage statistics or comparable evidence relevant to the applicable work location.") Thus, comparison of the Petitioner's U.S. wages to wages of those in similar jobs in her home country is inappropriate.

A preponderance of the evidence does not demonstrate the Petitioner's receipt of a high salary in relation to others in her field. We will therefore affirm SCOPS' finding regarding this evidentiary requirement.

C. Final Merits Determination

The Petitioner has met two evidentiary requirements – one less than needed for a final merits determination. *See* 8 C.F.R. § 204.5(h)(3). We therefore need not reach and hereby reserve consideration of her arguments regarding her final qualifications as an alien with extraordinary ability.

See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

III. CONCLUSION

The Petitioner demonstrated her authorship of a scholarly article in her field. But she has not met the requisite amount of evidentiary requirements for the requested immigrant visa category. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.