U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37458199

Date: APR. 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a sales specialist and trainer, 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.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). 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

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

(i) the alien has 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,
(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
(iii) the alien's entry into the United States will substantially benefit prospectively 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 sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that meets at least three of the ten categories 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 meets 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 the individual is 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).

II. ANALYSIS

Because the Petitioner has not indicated or established his receipt of a major, internationally recognized award, he must satisfy at least three of the regulatory criteria. On appeal, the Petitioner claims that he meets four of the regulatory criteria, namely that he has published material about himself relating to his work, has made original contributions of major significance in the field, has performed a leading or critical role in an organization that has a distinguished reputation, and has commanded a high salary or other significantly high renumeration in the field. 8 C.F.R. § 204.5(h)(3)(iii), (v), (viii), and (ix).

SCOPS determined that the Petitioner did not establish any of the aforementioned criteria. Upon de novo review, we agree.

A. Evidentiary Criteria

1. "Published material about the alien in professional or major trade publications or other major media, relating to the alien" work in the field for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iii).

This criterion requires "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iii). "Such evidence shall include the title, date, and author of the material, and any necessary translation." *Id.*

When adjudicating this requirement, USCIS first determines whether the published material relates to a petitioner and their specific work in the field. 6 *USCIS Policy Manual* F.2(B), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2. Evidence may include copies of print or online newspaper or magazine articles, popular or academic journal articles, books, textbooks, similar publications, or a transcript of professional or major audio or video coverage of a petitioner and their work. *Id.* Marketing materials created for the purpose of selling the person's products or promoting the person's services are not generally considered to be published material about the person. *Id.* The Agency then determines whether a publication qualifies as a professional, major trade, or major media publication. *Id.* When evaluating professional, major trade, or major media publications,

relevant factors include for professional and major trade publications, the intended audience; and, for major trade publications and other major media, the publications' relative circulation, readership, or viewership. *Id.*

The Petitioner's appeal brief points to two items in support of the criterion: an article entitled [redacted] in [redacted] News and the Petitioner's appearance on the show [redacted] This evidence is not sufficient to establish the criterion.

The article in [redacted] News discusses a series of lectures given at a conference. It briefly names and describes a lecture given by the Petitioner at the conference. This brief mention does not make the article about the Petitioner. Articles that are not about a petitioner, do not fulfill the regulatory criterion. *See Noroozi v. Napolitano,* 905 F.Supp.2d 535 (S.D.N.Y. 2012) (articles about the Iranian Table Tennis Team which only briefly mentioned the person were not about him); *see also 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). Moreover, the article lists no author as required by the plain language of 8 C.F.R. § 204.5(h)(3)(iii).

Regarding the Petitioner's appearance on the [redacted] show, the Petitioner has not presented adequate evidence to demonstrate this meets the criterion's requirements. We observe that the record contains screenshots of two videos with English language captions and sparse lines of English text between the screenshots. The videos are roughly six and two minutes, respectively. The text contained in the evidence is choppy and appears to be pulled from different nonsequential frames. It does not narratively flow and does not appear lengthy enough to constitute the entirety of the videos. The substance of the text provided is not sufficient to determine if the videos comply with the requirements.

Additionally, the videos seem to be in a foreign language, but the Petitioner did not include a transcript in the original language. It is not possible to meaningfully determine whether a translation is accurate when we lack original transcripts. Any document in a foreign language must be accompanied by a full English language translation, and a certification from the translator that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3).

Therefore, the Petitioner has not presented sufficient evidence to establish the criterion.

2. "Evidence 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).

To meet this criterion, a petitioner must submit "[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 should first determine whether an alien has made original contributions in their field. 6 *USCIS Policy Manual*, *supra*, F.(2)(B)(1). If so, the Agency should then determine whether any are of "major significance to the field." *Id.*

Evidence of significant contributions can include published research that has provoked widespread commentary on its importance from others in the field, or documentation that research generated a high number of citations relative to others' work in the field. *Id.* When determining whether original

contributions have major significance, detailed letters from experts in the field explaining the nature and significance of the contributions may provide valuable context, especially if accompanied by corroborating documentation. *Id.*

In support of this criterion the Petitioner points to photographs of his book signing, an article he wrote, his book's copyright, and evidence that his training materials and policies have been adopted by companies based on his book.

The evidence provided demonstrates that the Petitioner has written a book and that some companies have adopted his book in their training and policies. However, the evidence does not adequately demonstrate that the book or his teachings have impacted his field beyond his clients to constitute a major significance in the field. The appeal brief states that his book is "considered to be of major significance" but does not elaborate further beyond this generalized statement.

The record does not support the Petitioner's assertions either. For example, the letter from [redacted] one of the Petitioner's clients, details how the Petitioner helped expand and train his sales team. He does not detail any contributions the Petitioner has made of major significance in the field. Another letter from [redacted] notes that he has a mentorship program with the Petitioner and discusses the Petitioner's ability to create good sales teams. Again, he does not state how the Petitioner's work has impacted the field beyond his clients. Thus, the Petitioner has not adequately demonstrated he has made a significant impact on the field beyond his clients, and therefore, has not established the criterion.

The Petitioner claimed eligibility for four criteria. As such, his inability to satisfy the two outlined criteria means that 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 Petitioner's 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, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons. It is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

ORDER: The appeal is dismissed.