U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40083460

Date: APR. 30, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a research and development manager, seeks classification as an alien 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 that the record did not establish that the Petitioner had either received a major, internationally recognized award or satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal under 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 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. A petitioner must establish that these aliens seek to enter the United States to continue work in the area of extraordinary ability, and that their entry into the United States will substantially benefit the United States. The term "extraordinary ability" refers only to those aliens 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 an alien's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence that 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 a petitioner has met the initial evidence requirements, 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 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 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 stated:

> My career has been focused on research and development (R&D) in the personal care industry, with an emphasis on project management, claims substantiation, and formulation strategies to support the development and commercialization of safe and effective consumer products. I have contributed to product formulation, research methodology improvements, and regulatory strategy implementation, supporting the successful market introduction of multiple products.

The Petitioner earned a master's degree in physics in 2009. She worked for [redacted] in Brazil from 2008 to 2019, ultimately working on "the introduction of new wound care products," many of which were part of [redacted] product line. After entering the United States in 2019 as a B-2 nonimmigrant visitor and obtaining employment authorization, the Petitioner has worked for various U.S. employers. In 2022, the Petitioner began working as manager of R&D formulation at [redacted] a manufacturer of personal care and cosmetic products. When she filed the petition in March 2025, the Petitioner was still at [redacted] but had recently accepted a job offer from [redacted] spinoff company [redacted], effective April 2025.

Because the Petitioner has not indicated or shown that she received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claimed to have satisfied six of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (ii), Membership in associations that require outstanding achievements;
- (v), Original contributions of major significance;
- (vi), Authorship of scholarly articles;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services.

SCOPS concluded that the Petitioner met two of the criteria, pertaining to leading or critical roles and authorship of scholarly articles. The Petitioner does not contest SCOPS' conclusions regarding prizes or awards, and therefore we consider that issue to be abandoned. Any ground of ineligibility that is not raised on appeal is waived. *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)).

Upon review of the record, we will not disturb SCOPS' conclusion regarding leading or critical roles. We will discuss the other claimed criteria below.

1. Membership

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The Petitioner is an associate member of Sigma Xi, the Scientific Research Honor Society.

SCOPS concluded that the Petitioner did not establish that her associate membership in Sigma Xi meets the requirements of 8 C.F.R. § 204.5(h)(3)(ii). In stating this conclusion, SCOPS cited some of the requirements for full membership.

On appeal, the Petitioner asserts that SCOPS cited inaccurate information, including information that "applies to Full Members of Sigma Xi, and [the Petitioner] is an Associate Member." This observation is correct, but the record shows that associate membership is a lower rank of membership than full membership, with less demanding eligibility requirements.

A printout from Sigma Xi's website states: "An individual who has conducted independent investigation and written a report concerning their research is eligible for election to Associate Membership."

The Petitioner asserts on appeal that, because Sigma Xi's bylaws refer to "qualitative stature," "her Associate membership in Sigma Xi was established because of the inherent eminence of her work and its importance in her field." The Petitioner does not sufficiently support this argument. Statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight. *Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998).

The requirements for associate membership described in Sigma Xi's own materials are minimal, requiring little more than active involvement in scientific research. A letter from Sigma Xi indicates that "Sigma Xi is the world's largest general research honor society." The Petitioner does not explain how an association's large size could reasonably correlate to the highly exclusive membership requirements that the regulation demands. The same letter from Sigma Xi also states: "Selected individuals who have shown potential as researchers are invited to join as associate members." Here, the term "potential" clearly refers to expectations of future accomplishment, rather than outstanding achievements that have already occurred.

The Petitioner has not satisfied the requirements of this criterion.

2. Original Contributions

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

A former associate director at [redacted] stated:

> In 2010, [the Petitioner] and I jointly received [redacted] Innovation of the Year award for our work on the development of [redacted] and its groundbreaking claims. . . . . While I was responsible for the formulation aspects of the project, [the Petitioner] played a crucial role in developing the protocol that substantiated a key innovative claim — demonstrating, with robust scientific data, the product's ability to enhance skin elasticity after use. Her expertise in claims substantiation and data analysis ensured that the product not only met regulatory and scientific standards but also set a new benchmark in efficacy for lightweight, hydrating skincare formulations. [The Petitioner's] work on this project directly contributed to the successful launch of [redacted] solidifying its place in the market as a high-performance product. This innovation not only expanded [redacted] product line but also set a new industry standard, influencing competitors who have since followed the path set by this breakthrough. Her ability to blend scientific rigor with consumer-driven innovation has had a lasting impact on the industry.

Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance. *See, generally*, 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

The submitted letter does not meet the above standards. The opinions of the person who formulated the product do not necessarily reflect a consensus within the field about the significance of that product. The Petitioner did not submit "documentation corroborating the claimed significance" of the product. The record does not provide any specific, independent support for the vague assertion that the Petitioner's work "set a new industry standard" and "has had a lasting impact on the industry."

The Petitioner asserted: "This product line from [redacted] is one of the highest rated products in the marketplace." The Petitioner submitted a printout from the *Real Simple* website, ranking "[redacted]." The Petitioner did not show that this article represents a widely-held consensus rather than the opinions of its author. Also, the article does not mention [redacted] the specific product mentioned in the letter quoted above. Rather, the article includes a review of a different [redacted] product, specifically [redacted] The Petitioner did not establish what role, if any, she played in formulating that product.

The Petitioner's former supervisor at [redacted] who now works for [redacted] stated in a letter that the Petitioner made "critical contributions to the overall success of the [redacted] brand." Specifically, the Petitioner "overs[aw] all testing, documentation, and regulatory approvals necessary for market entry [into Brazil]. . . . Due to her leadership, [redacted] successfully launched more medical device bandages in [the] South American market in 2015, expanding brand reach, increasing sales, and strengthening global market presence."

The same individual indicated that the Petitioner also participated in the development of various [redacted] products, including a water-resistant backing and a flexible pad for use on joints. The Petitioner is named on several adhesive bandage patents held by [redacted], issued in 2020 and 2022.

Evidence of patents, while potentially demonstrating the work's originality, will not necessarily establish, on its own, that the work is of major significance to the field. *See, generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Evidence that the person developed a patented technology that has attracted significant attention or commercialization may establish the significance of the person's original contribution to the field. *Id.*

The Petitioner submitted promotional materials for [redacted] products, but these documents do not directly address the Petitioner's specific contributions. Sales data show that [redacted] products command a significant market share internationally, and a survey in the record shows that [redacted] is one of the most trusted brands in America. But the record also shows that [redacted] products have been available since 1921. The Petitioner did not establish the extent to which her recent work with the long-established brand is responsible for the brand's reputation or commercial performance.

An article on [redacted] website, discussing the history of [redacted] products, includes a photograph of a box of [redacted]. The Petitioner asserted that this article highlights the significance of her contributions. But the record does not show that the Petitioner is responsible for developing [redacted]. Rather, her former supervisor stated that she "was . . . part of the product development team" that made improvements that were "integrated into the . . . [redacted] product line." The materials in the record indicate that [redacted] went on the market in 2017, several years before the dates on the patents showing the Petitioner's name. The Petitioner has not established that her improvements to an existing product line are, themselves, original contributions of major significance in the field.

In a request for evidence (RFE), SCOPS acknowledged the evidence discussed above, but stated that the Petitioner had not submitted objective, documentary evidence of the major significance of her contributions.

In response, the Petitioner asserted that she had submitted "objective market research, product reviews, and consumer satisfaction surveys, demonstrating the popularity of the products created by" the Petitioner. But while those materials establish the popularity of established brands, they do not show that the Petitioner's improvements to those brands are significantly responsible for that popularity.

The Petitioner submitted a letter from a professor of biology and biological engineering at [redacted]. This individual summarized the Petitioner's career and credentials and quoted from materials already in the record, but the letter adds no new information to the record. This individual states that the Petitioner's patents reflect "revolutionary" advances in the field, but he does not corroborate this assertion.

SCOPS concluded that, while the Petitioner's work has been profitable for [redacted], the Petitioner did not establish that her work is of major significance in the field as a whole. SCOPS also noted that a patent attests to originality rather than significance.

On appeal, the Petitioner asserts that "evidence that a patent has been commercialized . . . is sufficient to show the patent has 'major significance.'" To support this argument, the Petitioner cites an unpublished AAO decision from 2018. That decision involved a researcher into alternative fuels who developed "a clean method of turning greenhouse gas into hydrogen fuel." Neither that decision nor the *USCIS Policy Manual* specifies that commercialization of patented technology is always sufficient to establish the major significance of an original contribution. The *USCIS Policy Manual* says that evidence of "*significant* attention or commercialization . . . *may* establish the significance of the person's original contribution to the field." *See, generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

In this instance, the record shows that [redacted] products already had a lengthy history of commercial success. The Petitioner has not shown that her specific contributions to the brand are of major significance to the field. The pre-existing success or popularity of an established brand does not lend major significance to every subsequent improvement or variation on that product, and the Petitioner has not identified any information in the general marketing data in the record to show that her contributions to the [redacted] line of [redacted] significantly increased sales or otherwise had an impact on the field consistent with major significance.

The Petitioner has not satisfied the requirements of this criterion.

3. Scholarly Articles

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) calls for evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

SCOPS concluded that the Petitioner had satisfied the requirements of this criterion. We disagree.

Between 2005 and 2007, as a graduate student studying physics in Brazil, the Petitioner co-authored five scholarly articles and conference presentations. The Petitioner described her graduate work as being "focused on the morphological characterization of ocular tissues using Atomic Force Microscopy." When she filed the petition in 2025, the Petitioner stated that her "strong foundation in scientific research and passion for applying scientific advancements to real-world challenges led [her] to pursue a career in personal care and cosmetic formulation and research."

In the RFE, SCOPS noted that the Petitioner's articles, published about two decades before the petition's filing date, "are in the field of biology and ocular pathology. These are fields unrelated to the claimed area of extraordinary ability." SCOPS requested evidence that the articles appeared in publications relating to her current field.

In response, the Petitioner cited the aforementioned letter from the professor at the [redacted] who stated:

> [The Petitioner's] academic research utilizing Atomic Force Microscopy (AFM) provided a rigorous foundation in advanced analytical techniques and nanoscale characterization-skills that are directly applicable to her career in research and development. . . . [S]he developed a high level of technical precision, data

> interpretation skills, and familiarity with surface interaction mechanisms, all of which are crucial in the development of complex formulations in the personal care and medical device industries. . . . Her background in AFM not only reflects her deep scientific training but also underscores her ability to translate highly technical methodologies into practical innovations within industry settings.

While the Petitioner's graduate training in physics and her subsequent career in personal care product development may involve overlapping skill sets and fall under the same broad umbrella term of "science," the Petitioner has not established that her published scholarly articles are in the field in which she intends to work in the United States.

The Petitioner has not satisfied the requirements of this criterion.

4. High Salary

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for evidence that the alien has commanded a high salary or other significantly high remuneration for services in relation to others in the field.

The Petitioner submitted copies of pay receipts from [redacted] showing biweekly gross pay of $4,950.49, equivalent to 128,712.74 per year. The job offer letter from [redacted] indicates an annual salary of $150,000. The Petitioner also submitted materials from the U.S. Department of Labor (DOL) and other sources.

SCOPS acknowledged the submitted evidence, but concluded that the Petitioner had not established that the job offer with [redacted] "will be . . . in the field of research and development," and therefore SCOPS determined that the Petitioner had not shown that the submitted salary information is relevant.

On appeal, the Petitioner argues that SCOPS did not "properly review and assess the evidence." We will discuss this evidence in greater detail here.

The Petitioner asserted that her "job description . . . corresponds to the Department of Labor job code for Chemists." Data from the DOL's Bureau of Labor Statistics indicates that the local level 4 wage for "chemists" is $114,733 per year, considerably lower than the Petitioner's documented salary from Accupac and her offered salary from [redacted].

The record does not support the Petitioner's assertion that data for chemists provide the appropriate benchmark for her remuneration. A printout from the DOL-sponsored website *O*NET OnLine* reads, in part:

> Chemists
> [Standard Occupational Classification (SOC) code] 19-2031.00
>
> Conduct qualitative and quantitative chemical analyses or experiments in laboratories for quality or process control or to develop new products or knowledge.

The Petitioner's recent work includes some of the elements described. But on Form I-140, the Petitioner stated her "Occupation" as "Natural Sciences Manager" and the "SOC Code" as "11-9121." Under "Nontechnical Job Description," the Petitioner wrote: "Plan, direct, or coordinate activities in such fields as life sciences, physical sciences, mathematics, statistics, and research and development in those fields." The stated information corresponds to the *O*NET OnLine* listing for "Natural Sciences Managers."

The Petitioner's self-reported job title of "Research and Development Manager" and other information in the record indicate managerial responsibilities that are not intrinsic to the occupation of a chemist.

In the RFE, SCOPS noted that "a natural sciences manager . . . is an occupation separate and distinct from [that of] a chemist. As such the wage reports provided do not relate to the petitioner's occupation and do not provide any indication that her pay is high relative to the field."

In response, the Petitioner asserted that "the U.S. Department of Labor's *Occupational Outlook Handbook* (*OOH*) . . . does not contain a description specific for individuals who work in cosmetic or medical device formulation." The Petitioner stated that her duties share some elements with "Natural Sciences Managers," "Chemists and Materials Scientists," and "Medical Scientists." The Petitioner cited an "expert opinion letter . . . [that] reviews [the Petitioner's] salary in comparison to 'Medical Scientists.'" Further above, we have addressed the letter in question, from the professor at the [redacted] Prior to obtaining this letter, the Petitioner had not attempted to compare her salary or her job duties to those of a medical scientist.

The Petitioner submitted printouts from *O*NET OnLine* and the *OOH* pertaining to "Medical Scientists" and "Natural Sciences Managers." The information for "Natural Sciences Managers" matches what the Petitioner had specified on Form I-140. Therefore, we will give this information considerably more weight than the materials that the Petitioner submitted for other occupations that she claims relate to her intended employment.

The *O*NET OnLine* and *OOH* printouts indicate that the 2024 median wage for "Natural Sciences Managers" is $161,180 per year, considerably higher than the Petitioner's documented salary from [redacted] and the offered salary from [redacted]

The Petitioner did not directly address the median salary figure on the above printouts. Instead, she stated: "Department of Labor wage data for this classification includes unrelated positions . . . that are in completely different occupational areas. We therefore include supplemental data from Payscale [that] shows that the average base salary is below $150,000.00, and from Data USA, which shows the average female salary in this occupation is $96,712.00."

While the category of "Natural Sciences Managers" covers a range of occupations, some of them more closely related to the Petitioner's work than others, the same is true for "Medical Scientists" and "Chemists." The Petitioner did not establish that either of those latter categories is a closer match for her current work than "Natural Sciences Managers."

The Petitioner did not show that the "unrelated positions" included in the DOL wage data for "Natural Sciences Managers" pay significantly higher salaries that, therefore, skew the median figure upward.

The Petitioner did not establish that the salary figures from *PayScale* and *Data USA* are more reliable than the Department of Labor's data. Some websites provide user-reported salary data, which may not be a valid comparison if, for example, too few users reported their salaries or the data is otherwise not credible or reliable. *See, generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). An annotation on the *PayScale* printout reads: "This data is based on 1 survey responses" (sic).

The *Data USA* printout indicates that the website has an interactive map to show the "average wage for Natural sciences managers" by state. The Petitioner did not provide the averages for Pennsylvania, site of [redacted], or for New Jersey, the location of her offered position with [redacted]. The submitted printout provided wage averages for three states, all of them higher than the Petitioner's documented salaries: Connecticut, $215,517; California, $158,793; and Arizona, $151,717. These figures are dated 2022, two years before the 2024 pay receipts from [redacted] and three years before the 2025 job offer from [redacted]. Therefore, the figures do not reflect changes in average wages that may have occurred after 2022.

The Petitioner has submitted widely varying data concerning several different occupations. DOL data relating to the occupation that the Petitioner specified on Form I-140 indicates that the Petitioner's past and offered future salaries are below the median for that occupation. The Petitioner's attempts to tie her work to lower-paying occupations are not persuasive.

The Petitioner has not satisfied the requirements of this criterion.

For the above reasons, we agree with SCOPS' basic conclusion that the Petitioner has not satisfied the requirements of at least three of the baseline criteria at 8 C.F.R. § 204.5(h)(i)–(x).

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that she is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

The Petitioner has documented a lengthy career working for a major manufacturer of personal care products, but she has not shown that this work has resulted in the individual recognition and acclaim that the statute and regulations demand.

The Petitioner has not demonstrated eligibility as an alien of extraordinary ability. We will therefore dismiss the appeal.

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.