U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38159303

Date: AUG. 5, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a human resources consultant, 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 Petitioner did not satisfy any of the ten initial evidentiary criteria, of which he must establish at least three. 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 his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient 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); *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 indicates that he is a manager and partner at an e-commerce business development company. Because the Petitioner has not claimed or established that he has received a major, internationally recognized award as defined at 8 C.F.R. § 204.5(h)(3), he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, SCOPS determined that the Petitioner did not satisfy any of the ten alternate regulatory criteria and therefore did not establish eligibility as an alien of extraordinary ability. On appeal, the Petitioner maintains that he has established eligibility for seven criteria. After reviewing the evidence, we conclude that the record does not reflect that the Petitioner meets the requirements of at least three criteria.

A. Evidentiary Criteria

1. Lesser Nationally or Internationally Recognized Awards.

The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires a petitioner to provide "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor."

In the initial filing, the Petitioner acknowledged that he "has not received any nationally or internationally recognized awards or prizes for excellence," but asserted that he establishes this criterion "by demonstrating exceptional performance and recognition in his professional career." On appeal, the Petitioner repeats the claims made in response to SCOPS' request for evidence (RFE), asserting that "while traditional awards may not apply, the combination of ISO certifications, detailed professional roles, and industry influence supports [the Petitioner's] exceptional qualifications and achievements" and therefore satisfies this criterion.

To fulfill this criterion, the Petitioner must demonstrate that he has received prizes or awards, and that they are nationally or internationally recognized for excellence in the field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. The record does not demonstrate that the Petitioner has received a nationally or internationally recognized prize or award for excellence in his field, and he does not assert that he has received such an award. Instead, the Petitioner seeks to rely on a combination of other factors that he contends support his "qualifications and achievements." But this is not what the regulation requires. Moreover, on appeal, the Petitioner does not identify any factual or legal errors in SCOPS' decision that this criterion does not apply.

For these reasons, the Petitioner did not show that he meets this criterion.

2. Membership in Associations Which Require Outstanding Achievements.

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation 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 claims eligibility for this criterion based on receiving training certificates in ISO 9001:2000 and ISO 9001:2001. The Petitioner acknowledges that ISO certifications "are not traditional membership-based organizations" but asserts that they are "highly esteemed international standards for quality management systems." The Petitioner contends that these certifications reflect his "outstanding professional qualifications and adherence to rigorous standards within the field of human resources" and that they therefore "serve as evidence of his membership in entities with high standards and significant prestige."

On appeal, the Petitioner repeats the same claims previously presented to SCOPS that his training certificates are relevant to his field, reflect his expertise, and demonstrate his significant accomplishments. However, the Petitioner did not provide evidence to establish that his ISO training certifications constitute membership in an association, as required by the plain language of the regulation. Additionally, the Petitioner did not provide evidence to establish the requirements to obtain these certifications, in order to demonstrate whether receiving them requires outstanding achievements, as judged by recognized national or international experts in the field. The record therefore does not establish that the Petitioner is a member of an association that requires outstanding achievements of their members, as judged by recognized experts in the field.

Accordingly, the Petitioner did not demonstrate that he satisfies this criterion.

3. Display at Artistic Exhibitions or Showcases.

The regulation at 8 C.F.R. § 204.5(h)(3)(vii) requires "[e]vidence of the display of the alien's work in the field at artistic exhibitions or showcases."

The Petitioner claims eligibility under this criterion based on 8 C.F.R. § 204.5(h)(4), which states "[i]f the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility." This regulatory provision provides

petitioners with the opportunity to submit comparable evidence to establish the person's eligibility, if it is determined that the evidentiary criteria described in the regulations do not readily apply to the person's occupation. *See generally* 6 *USCIS Policy Manual, supra.* When evaluating such comparable evidence, we consider whether the regulatory criteria are readily applicable to the person's occupation and, if not, whether the evidence is truly comparable to the criteria listed in that regulation. *Id.*

The Petitioner claims that the "impact of the Petitioner's work, practices, and protocols in human resources has been far-reaching, influencing his peers and colleagues to adopt similar strategies;" that his approach "has been emulated by peers in the industry" who "have sought to replicate similar initiatives;" and that "[o]ther HR professionals have referred to his work." The Petitioner asserts that his "innovative work, industry influence, and public recognition all serve as comparable evidence that satisfies the requirement . . . for having his work displayed in an artistic exhibition or showcase . . . ."

The Petitioner does not cite any evidence in the record in support of these assertions. The burden of proof rests with the Petitioner, who should submit "relevant, probative, and credible evidence" to establish his claims. *See Matter of Chawathe*, 25 I&N Dec. at 376. Additionally, the plain language of 8 C.F.R. § 204.5(h)(4) permits the petitioner to submit comparable "evidence" to establish eligibility. The Petitioner's unsupported statements are insufficient to establish the claimed impact of his work and insufficient to establish that this impact would be truly comparable to the display of work at artistic exhibitions or showcases. *See generally* 6 *USCIS Policy Manual, supra.*

Accordingly, the Petitioner did not demonstrate that he satisfies this criterion, including through the submission of comparable evidence.

4. Leading or Critical Role for Distinguished Organizations or Establishments.

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." The role may be shown to be leading or critical for an organization, establishment, or a division or department of an organization or establishment. Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. For a critical role, evidence should show that the alien 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. In determining whether the organization or establishment, or a department or division thereof, has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *See generally* 6 *USCIS Policy Manual, supra.*

The Petitioner claims eligibility for this criterion based on his employment with [redacted] as a head of human resources, and his employment with [redacted] in their human resources department, as evidenced by reference letters from colleagues within these organizations. Additionally, the Petitioner submitted copies of training certificates related to human resources management and asserts that the institutions from which he obtained these certificates are prestigious. On appeal, the Petitioner, again, does not identify legal or factual errors in SCOPS' determination that

the Petitioner did not establish this criterion, and instead repeats the same claims previously presented. For the following reasons, we conclude that the Petitioner has not established this criterion.

The reference letters speak highly but generally of the Petitioner's performance in his roles, stating that his work was "crucial in implementing the necessary actions to comply with government regulations" during the COVID-19 pandemic, that the Petitioner's efforts "added value" to the company's processes, and that the Petitioner led a project to implement a new employee evaluation system. However, the letters do not provide sufficient specific information or details to establish that the Petitioner's role within these organizations was either leading or critical.

Additionally, one of the letters claims that the Petitioner was employed as a "Head of Human Resources for the productive [e]stablishments that the company owns in the province of [redacted] and as a legal proxy to represent the company in labor matters within the province of [redacted]." However, the letter does not provide context regarding the organizational structure of the company, nor did the Petitioner provide other evidence to establish the company structure, such that we are able to determine whether this was a "leading" role within the organization. Moreover, the job duties provided in the letter do not help establish that the role was leading. For example, the letter states that this role required the Petitioner to "[c]oordindate" and "[p]articipate" in activities and does not indicate whether the Petitioner led, supervised, or managed other employees and, if so, how many. We therefore conclude that the letter does not provide evidence of a job title with matching duties to help establish that a role was leading. *See generally* 6 *USCIS Policy Manual, supra.*

This regulatory criterion also requires that the organization or establishment, or the department for which the person holds or held a leading or critical role, have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii). The Petitioner's counsel stated in the RFE response, and repeats on appeal, that these organizations are "prominent" and have a "distinguished reputation," but the record does not contain evidence in support of these claims. Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight.").

Finally, the training certificates submitted by the Petitioner do not establish the Petitioner's leading or critical role in an organization or establishment that has a distinguished reputation, as required by the plain language of the regulation.

Accordingly, the Petitioner has not demonstrated that he fulfills this criterion.

5. Commercial Success in the Performing Arts.

The regulation at 8 C.F.R. § 204.5(h)(3)(x) requires "[e]vidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales." The Petitioner claims eligibility under this criterion based on the "flexibility allowed under 8 C.F.R. § 204.5(h)(4)," asserting that this regulation "allows for a flexible interpretation of these criteria, permitting the use of analogous evidence to establish eligibility." As stated above, the regulation at 8 C.F.R. § 204.5(h)(4) permits the submission of comparable evidence if an evidentiary criterion's standards do not readily apply to the beneficiary's occupation.

Here, the Petitioner asserts that his contributions to his prior employers as a human resources manager "can be seen as equivalent to commercial success in the performing arts because his leadership led to substantial financial and operational benefits for these organizations." In support of this claim, the Petitioner refers to his reference letters from prior colleagues. The Petitioner asserts that these letters establish that the Petitioner's work meets this criterion under the comparable evidence regulation because "his leadership substantially impacted the company's commercial performance" and they establish the "direct commercial success resulting from [the Petitioner's] HR management."

These reference letters, also discussed above, state the Petitioner's dates of employment and job title, describe the Petitioner's prior job duties, and discuss projects to which the Petitioner was assigned. However, they are not specific or detailed enough to establish the Petitioner's claim that his work led to "substantial financial and operational benefits" for these organizations. Additionally, the Petitioner has not established how these reference letters are truly comparable to "box office receipts or record, cassette, compact disk, or video sales" that demonstrate commercial success in the performing arts. General claims that USCIS should accept witness letters as comparable evidence are not persuasive. *See generally* 6 *USCIS Policy Manual, supra.*

Accordingly, the Petitioner did not demonstrate that he satisfies this criterion, including through the submission of comparable evidence.

B. Remaining Claimed Evidentiary Criteria

Although the Petitioner maintains eligibility for two additional criteria on appeal—those relating to judging the work of others at 8 C.F.R. § 204.5(h)(3)(iv) and commanding a high salary or other remuneration at 8 C.F.R. § 204.5(h)(3)(ix)—the Petitioner has not demonstrated eligibility for any of the evidentiary criteria discussed above. He therefore cannot fulfill the initial evidentiary requirement of meeting at least three of the criteria at 8 C.F.R. § 204.5(h)(3). Therefore, we reserve the issue of whether he has satisfied the additional two criteria he claims on appeal. *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).

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. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that he 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*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 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. at 25.

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 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.