U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 33610691

Date: AUG. 6, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a materials engineer-economist, 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.

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner had not established that he met the initial evidence requirement for this classification through evidence of either a one-time achievement or that he meets three of the alternative evidentiary criteria under 8 C.F.R. § 204.5(h)(3). 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); *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

Because the Petitioner has not indicated or established that he has 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). The Petitioner initially claimed to have met three criteria, summarized below:

- (ii), Memberships in associations in the field;
- (v), Original contributions of major significance in the field;
- (viii), Leading or critical role for distinguished organizations or establishments.

In denying the petition, SCOPS determined that the Petitioner did not fulfill any of the initial evidentiary criteria. On appeal, the Petitioner maintains that SCOPS erred in its determination that he did not meet the three claimed evidentiary criteria. Upon de novo review, the record does not reflect that the Petitioner meets the requirements of at least three criteria.

A. Membership in Associations in the Field

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." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained outstanding achievements in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner asserts that he meets this criterion based on the submitted copy of an identification card issued by the [redacted] indicating the Petitioner's job title as "State Security Lieutenant Colonel Head of Division." SCOPS determined that the identification card did not

establish membership in an association in the field for which classification is sought. Nor did the Petitioner submit evidence to demonstrate that the [redacted] was an association that requires outstanding achievements of their members or that recognized experts judge their members.

On appeal, counsel for the Petitioner states that the identification card is "more than a mere identification; it signifies [the Petitioner's] distinguished position within a highly specialized governmental organization." Counsel further maintains that the [redacted] is not just a governmental agency but also a professional organization within the law enforcement and national security fields and "membership and rank within such a prestigious and critical institution inherently reflects a significant level of trust, responsibility, and expertise." 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").

We agree with SCOPS that the Petitioner has not established that his "role as a Lieutenant Colonel and Head of Vision" for the [redacted] correlates with the field for which classification is sought, namely, "Materials Engineer -Economist."[1] Furthermore, the Petitioner has not submitted any documentation on appeal to establish that the [redacted] is an association in the field for which classification is sought that requires outstanding achievements of their members, as judged by national or international experts in their disciplines or field.

Given the above, the Petitioner has not established that he meets this criterion.

B. Original Contributions of Major Significance in the Field

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 petitioner may show that their contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia*, 4 F. Supp. 3d at 134-35. Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

As evidence under this criterion, the Petitioner submitted three letters of support from past colleagues discussing his capabilities and work experience. SCOPS considered these letters but found that, while

[1] On appeal, while counsel contends that the classification sought pertains to the Petitioner's "expertise in national security and law enforcement," he has not sufficiently explained how the referenced membership is relevant to his previously claimed area of expertise as a "Materials Engineer-Economist."

they established the Petitioner's work for his past employers, they were not sufficient to demonstrate that the Petitioner's contributions had risen to the level of major significance in the field.

On appeal, the Petitioner claims that he presented testimonials from three colleagues attesting to his majorly significant contributions. For instance, M-A-[2] stated that the Petitioner developed a computer program" for their employer that was "eventually implemented by other companies."[3] However, the documentation in the record does not sufficiently establish how the Petitioner's computer program development for one past employer rises to the level of major significance required by this criterion. Nor does the record provide specifics on the computer program's purported implementation beyond the Petitioner's employer.

As another example, G-E-, an individual that worked with the Petitioner from 2001 until 2003, asserted that the Petitioner has "consistently demonstrated a deep understanding of technical knowledge of principles and components involved in metal-plastic windows and facades" and has "consistently demonstrated a strong work ethic and dedication to delivering results." G-E-, however, does not offer specific examples of how the Petitioner's work has influenced the field or otherwise rises to the level of original contributions of major significance in the field.

Furthermore, L-L-, another individual that worked with the Petitioner from 2017 to 2023, stated that the Petitioner has demonstrated "outstanding leadership qualities, fostering a collaborative and cohesive work environment" and he possesses "excellent interpersonal and communication skills." While L-L- is complimentary of the Petitioner's professionalism and dedication to his work, he does now explain how they equate to contributions of major significance in the field.

The reference letters do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to show the nature of the specific "original contributions" that the Petitioner has made to the field that have been considered to be of major significance. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, *8 (S.D.N.Y. Jan. 5, 2024) (finding the petitioner's testimonial letter mostly consisted of conclusory statements about the significance of his work and his potential).[4]

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he has made original contributions of major significance in the field.

C. Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "evidence 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 a division or department of an organization or

[2] Initials are used to protect the author's privacy.

[3] While we discuss a sampling of letters, we have reviewed and considered each one.

[4] We acknowledge counsel's statements on appeal that the Petitioner's work "has been referenced in various industry publications and internal government reports, highlighting the innovative nature of the contributions and their recognition by peers and experts in the field" and the Petitioner has "received several awards and commendations for his work." However, as explained above, unsubstantiated assertions by counsel do not constitute evidence. *Matter of S-M-*, 22 I&N Dec. at 51.

establishment, or for the organization or establishment overall. 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* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner maintains on appeal that he has performed in a leading or critical role for multiple employers. In support, he again references the testimonials from three colleagues. While we acknowledge the statements indicating that the Petitioner "developed a computer program," "was responsible for accounting, logistics, operation, transportation, purchasing and sales departments" as "Head of the Financial Department at the Operational and Technical Agency," and "provided diligent control and supervision of all departments under his jurisdiction," the letters do not contain detailed, specific information evidencing the Petitioner's leading or critical role. The letters do not establish how the Petitioner's role distinguished him from others within the organization, nor do they establish where the Petitioner was in the overall hierarchy.

Further, this criterion also requires the organization or establishment, or the department or division for which the person holds or held a leading or critical role, to have a distinguished reputation.[5] *Meriam-Webster's* online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "benefitting an eminent person."[6] The letters provided do not suffice to establish that the organization(s) or establishment(s) for which the Petitioner purportedly held leading or critical role(s) have distinguished reputations.

In this case, the Petitioner has not demonstrated that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner to 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 they are 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. 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).

[5] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).
[6] *Id.*

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.