U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37820699

Date: AUG. 08, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, an airline pilot, 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.

The Service Center Operations (SCOPS) denied the petition, concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that he met at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal. 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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

Because the Petitioner has not indicated or established that he 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). SCOPS determined the Petitioner did not satisfy at least three of the initial evidentiary criteria and we agree. On appeal, the Petitioner asserts he meets the evidentiary criteria relating to published material, original contributions of major significance in the field, and leading or critical role for organizations or establishments that have a distinguished reputation.[1]

A. Published Materials

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) 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." These materials must include "the title, date, and author of the material, and any necessary translation." *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. The published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work). Professional or major trade publications may be identified by their intended audience, while other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *Id.*

[1] While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

On appeal, the Petitioner states that he "submitted articles and media coverage highlighting his contributions to aviation safety and training." However, the record includes only one media publication, which is about [redacted] and includes a photo of the Petitioner. Specifically, the article discusses the airline's new direct flight from [redacted] to [redacted], Peru and its travel options offered by its Connections Center in [redacted]. The article does not mention the Petitioner or discuss his specific work in the field. Therefore, the Petitioner has not established that he meets this criterion.

B. 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 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, supra, F.2(B)(1).

On appeal, the Petitioner states his "implementation of safety protocols, including Flight Data Analysis and monitored stabilized approaches, constitutes original contributions of major significance to aviation safety." He further states "USCIS disregarded letters from industry experts and awards demonstrating these contributions' transformative impact on aviation practices and passenger safety." Specifically, the Petitioner highlights his [redacted] for his "impeccable safety record" and his Certificate of Recognition for concluding his [redacted] training program. The Petitioner, however, does not establish how these recognitions are original contributions or how having a safety record and completing a training program indicate a contribution of major significance. Therefore, the Petitioner has not established that he has made original contributions of major significance in his 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 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. *Id.*

On appeal, the Petitioner contends he "served in critical roles as a captain, mentor, and safety advocate at globally recognized airlines such as [redacted] and [redacted]." The Petitioner highlights his letters of support to establish his critical role in the airline companies. However, neither the Petitioner nor the letters explain how his employment as a pilot at [redacted], or [redacted] "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." *Id.* For instance, the letter from F-H-A- states that the Petitioner "was always one step ahead of the game and always had a high level of awareness" and "fellow Captains always spoke good of him at the personal and airmen level." Moreover, the letter from R-C-S- states that the Petitioner "is a man who has integrity and a high work ethic" and "has always been considered an asset in all his positions." Although the letters generally praise the Petitioner's work ethic and performance, the letters do not discuss or indicate how the Petitioner's role as a pilot was in a leading or critical role. Without specific, detailed information, the letters do not show the Petitioner performed in a leading or critical role.[2]

This regulatory 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. *See generally 6 USCIS Policy Manual*, *supra*, at F.2(B)(1). Meriam-Webster's online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Id.* The Petitioner provided printouts from the airlines' websites, which include information about their history and services. However, the Petitioner did not explain or show how the airlines' history and services garnered them a distinguished reputation. *See Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *5 (S.D.N.Y. Mar. 21, 2023) (finding self-promotional material from the organization did not establish a sufficiently high reputation).

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

D. Comparable Evidence

The regulation at 8 C.F.R. § 204.5(h)(4) 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*, at F.2(B)(1). When evaluating such comparable evidence, officers must consider whether the regulatory criteria are readily applicable to the person's occupation and, if not, whether the evidence provided is truly comparable to the criteria listed in that regulation. *Id.*

The Petitioner contends "USCIS also failed to consider comparable evidence under 8 C.F.R. § 204.5(h)(4), despite the petitioner's substantial accomplishments in an occupation where traditional benchmarks such as patents or academic publications are not applicable" and asserts "[h]is safety innovations, mentorship, and influence on aviation standards are comparable in significance to achievements in other fields." However, the Petitioner does not explain which criterion or criteria do

[2] *See generally 6 USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that this is one criterion where letters from persons with knowledge of the significance of the person's leading or critical role can be particularly helpful to officers in making this determination, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical).

not apply to his occupation, and how the documentation is comparable in meeting a particular criterion or criteria. For these reasons, the Petitioner did not demonstrate the documentation submitted qualifies for the comparable evidence provision.

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 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).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability.

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.