U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39626550

Date: AUG. 19, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a veterinary group, seeks classification of the Beneficiary, a director of veterinary surgical education, 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 that although the Beneficiary satisfied four initial evidentiary criteria, the Petitioner did not establish that the Beneficiary was one of the small percentage who had risen to the very top of the field of endeavor, and that the Beneficiary had sustained national or international acclaim in the field. 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) 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 international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then they must provide sufficient qualifying documentation 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i) (x) do not readily apply to their 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).

II. ANALYSIS

The Beneficiary is a native of Australia and a citizen of Canada. [redacted] LLC (the Petitioner) is a provider of emergency and urgent care veterinary services across the United States and currently employs the Beneficiary as director of surgical education. In seeking the instant classification, it seeks to offer the Beneficiary the same role in a full-time, permanent capacity, which it described as overseeing an educational program in emergency surgery for over 1000 graduate veterinarians, developing a surgery curriculum, and collaborating with veterinary specialists and industry education leaders. The Petitioner also stated that the Beneficiary supervised emergency veterinarians at the Petitioner's hospitals and instructed them in a variety of surgical procedures. In support of the petition, the Petitioner submitted the Beneficiary's training certifications, an award certificate, academic documents including an academic equivalency evaluation for her doctor of veterinary medicine degree earned in Australia, letters of recommendation, media articles, information regarding the Beneficiary's published work and citations in other published work, and documentation of her participation in peer review processes. The record also contains documentation of the Beneficiary's membership and Diplomate status in the [redacted].

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, she must satisfy at least three of the ten alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claimed in the initial petition that the Beneficiary met seven regulatory criteria. In denying the petition, SCOPS determined that the Beneficiary met four of these criteria. As a result, SCOPS conducted a final merits determination, but determined that the

record did not demonstrate the required sustained national or international acclaim and that the Beneficiary is among the small percentage at the very top of the field of endeavor. Specifically, SCOPS observed that the Beneficiary had not achieved or maintained sustained international acclaim despite her having been featured in podcasts, experience conducting peer review, publication of eight scholarly articles with 78 citations in works by other scientists in the field, and current employment with the Petitioner.

On appeal, the Petitioner submits a brief and asserts that the Beneficiary possesses the requisite extraordinary ability for the instant classification. Specifically, it disputes the SCOPS determination that the Beneficiary did not meet the additional claimed criteria regarding membership in associations requiring outstanding achievements; an original contribution of major significance in the field; and commanding a high salary compared to others in the field. *See* 8 C.F.R. § 204.5(h)(3)(ii), (v), and (ix). Additionally, the Petitioner argues that SCOPS applied a more stringent standard than the preponderance of the evidence and ignored evidence widely recognized as probative in the Beneficiary's field. The Petitioner contends that it provided sufficient independent, objective evidence of the Beneficiary's original contributions of major significance to the field of veterinary science and medicine. It also asserts that the volume of the Beneficiary's citation counts, which includes scholars on four continents, is significant, and is widely regarded in academia as an objective measure of scholarly impact, and that she also received the [redacted] Award for an outstanding research presentation in the field of animal surgery. The Petitioner provides examples of four researchers who are using the Beneficiary's work to advance their own research endeavors.

In a final merits determination, we analyze an individual's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

We evaluate whether the Petitioner has demonstrated, by a preponderance of the evidence, the Beneficiary's sustained national or international acclaim,[1] she is one of the small percentage at the very top of the field of endeavor, and her achievements have been recognized in the field through extensive documentation. We also consider the evidence submitted in support of those evidentiary criteria we do not discuss and about which we will not make specific determinations).[2] In this analysis,

[1] *See generally* 6 *USCIS Policy Manual* F.2(A)(1), https://www.uscis.gov/policy-manual (according to *Black's Law Dictionary* (11th ed. 2019), the definition of sustain is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time").

[2] The Petitioner disputes SCOPS' conclusion that the Beneficiary only meets four of the seven claimed evidentiary criteria. It is not necessary for us to make specific findings on the additional three evidentiary criteria, as petitioners for this classification need only meet "at least three" to warrant a final merits determination. *See Nagaiah v. Allen*, No. CV 23-2077-KSM, 2025 WL 1508028, at *15 (E.D. Pa. May 27, 2025) (stating that the petitioner's challenge to USCIS' finding at step one does not move the needle because USCIS determined that he prevailed at step one). On appeal, the Petitioner appears to claim that because the Beneficiary meets so many initial evidentiary criteria, it has established that she merits classification as a person of extraordinary ability by a preponderance of the evidence. But the number of evidentiary requirements met has no direct bearing on the final merits determination. Under USCIS policy, "so long as the petitioner has submitted other evidence that meets the three qualifying criteria," an officer cannot deny a petition for failure to meet an evidentiary requirement. 6 *USCIS Policy Manual* F.(2)(B)(2). USCIS policy states: "Approval or denial of a petition

we agree with SCOPS that the Petitioner has not demonstrated the Beneficiary's eligibility by a preponderance of the evidence.

We recognize that the Beneficiary has authored scholarly articles, has participated as the judge of the work of others, and has performed in a leading or critical role for organizations with a distinguished reputation. Material has also been published about her in major media related to her field. In support of the claim that the Beneficiary has achieved sustained national and international acclaim and is among the small percentage at the very top of the field of veterinary surgical education, the Petitioner largely relied on her publication of studies regarding nano-encapsulation of bilirubin, a novel method of drug delivery, and related recognition by fellow veterinary surgical educators and researchers. The record indicates also that the Beneficiary is [redacted] veterinarians in the world who hold Diplomate status in the [redacted] approximately [redacted] of which are specialized in small animal surgery like the Beneficiary. She also received an award from [redacted] for her article on '[redacted]'. Finally, the Beneficiary has also been invited to speak and present at conferences for continuing veterinary education.

Nevertheless, in considering the totality of the evidence, the Petitioner has not demonstrated that the Beneficiary's achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. 1990 U.S.C.C.A.N. 6710, 6739. Furthermore, the Petitioner has not shown that the Beneficiary has risen to that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 FR 30703-01, 30704. Here, the Petitioner has not established that the Beneficiary's career meets this very high standard.

As a general matter, the Petitioner did not show that the Beneficiary's work has garnered wide attention in her field indicative of being at the very top of her field of endeavor, contrary to the Petitioner's argument on appeal that SCOPS appeared to require a higher standard due to the nature of the research field. The Petitioner did not demonstrate how Beneficiary's work distinguishes her from other veterinary surgical educators who have engaged in either research or training. Although the Petitioner provided citation records indicating that 78 other researchers have cited the Beneficiary's work, which the recommendation letters attest is a high number, the record does not contain sufficient information about whether it is high compared to other published research by veterinary surgical educators. Additionally, a letter Dr. [redacted] Hospital Director and Specialist Small Animal Surgeon, Small Animal Specialist Hospital, [redacted] Australia stated that the Beneficiary's research has contributed to global understanding and application of nanotechnology to veterinary surgery. But the record as a whole does not establish the significance or influence of the Beneficiary's specific work such that it showcases a career of acclaimed work in the field.[3]

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is based on the type and quality of evidence submitted rather than assumptions about the failure to address different criteria." *Id.* Thus, the number of additional evidentiary criteria beyond the requisite amount that the Petitioner meets does not necessarily merit the petition's approval.

[3] As a general matter, the evidence submitted by the Petitioner described the Beneneficiary's research in technical terminology specific to the veterinary medicine field. *See Sagarwala v. Cissna*, 387 F. Supp. 3d 56, 68-70 (D.D.C. 2019)

As noted in the SCOPS denial, although the Beneficiary was interviewed in podcasts about veterinary education, the record does not reflect that these interviews are consistent with having received public recognition of sustained national or international acclaim necessary for this highly restrictive classification. *See* section 203(b)(1)(A) of the Act. Additionally, the Petitioner submitted articles from *Medical Press* and *Nanowerk News* about the Beneficiary's research. But the articles feature the Beneficiary's co-researchers and do not mention the Beneficiary aside from listing her as one of the studies' authors. This undercuts the Petitioner's claim that the Beneficiary is in a small percentage at the very top of the field of endeavor, as her positioning in these articles indicates that her contributions are commensurate with, rather than exceeding, those of her collaborators on this research.

The Petitioner argues that its own reputation and standards demonstrate the Beneficiary's extraordinary ability. A letter from Dr. [redacted] the Petitioner's Vice President for Medical Operations, asserted that the Beneficiary was the first and only board-certified small animal surgeon employed by the Petitioner. Dr. [redacted] claimed that the Beneficiary created an emergency surgery training program for experienced emergency doctors, which no other North American veterinary organization has created. A letter from Dr. [redacted] the Petitioner's Senior Director of Clinical Academy Programs, stated that the Beneficiary helps fill a nationwide shortage of veterinary professionals and an even larger shortage of veterinary surgeons capable of performing emergency surgical procedures on pets. Furthermore, the letter from Dr. [redacted] corroborated the claim that the Petitioner has an industry reputation of providing an exceptional standard of veterinary care and relies only on the most talented individuals to train its medical professionals. However, the Petitioner did not provide additional independent, corroborating evidence regarding the significance or prestige of employment by the Petitioner in the field. *See Matter of Chawathe*, 25 I&N Dec. at 376 (holding that a petitioner must support assertions with relevant, probative, and credible evidence).

In addition, we acknowledge the recommendation letters from veterinary surgical educators which corroborate the Beneficiary's reputation in her field, discuss her contributions, and assert that her expertise has been sought by distinguished organizations and national and international conferences. Several letters assert that the Beneficiary is at the very top of her field between her research and extensive clinician and teaching experience. Nevertheless, the letters do not include a discussion of how the Beneficiary's abilities and accomplishments set her apart from other veterinary surgical educators who have also conducted research or led or created training programs. The letter from Dr. [redacted] Executive Associate Dean and Professor, [redacted] indicates that the Beneficiary was operating "beyond the expected level of her training" when Dr [redacted] was her research advisor, but this is not sufficient to show the requisite sustained acclaim at the national or international level. Moreover, while many of the letters' authors hold senior positions at academic institutions specializing in veterinary medicine, some of these indicate that they are from the Beneficiary's former advisors or co-researchers and are therefore given less probative weight. *See Strategati, LLC v. Sessions*, No. 18-cv-1200, 2019 WL 2330181, at *6 (S.D. Cal. May 31, 2019) (affirming USCIS' statement that "the phrase 'contributions of major significance in the field' requires substantial influence beyond one's employers, clients, or customers.")

(explaining petitioners should present accessible explanations of job duties and responsibilities in terms the adjudicating agency is likely to understand).

The record as a whole, including the evidence discussed above, does not establish the Beneficiary's eligibility for the benefit sought.[4] Here, the Petitioner seeks a highly restrictive visa classification for the Beneficiary, intended for individuals already at the top of their respective fields. *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2002) (stating that extraordinary ability is such an elite level of accomplishment); *Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) (holding that extraordinary ability visas are known as "Einstein" visas, are extremely "coveted," and are "reserved for only the most talented" aliens"); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that EB-1 visa are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, the Petitioner has not shown that the significance of the Beneficiary's work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. Section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that the Beneficiary is among the envisioned small percentage at the top of her field. *See* 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated the Beneficiary's eligibility as an individual of extraordinary ability. Therefore, the appeal will be dismissed and the petition will remain denied.

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.

[4] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence).