U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41658363

Date: AUG. 19, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a chief executive officer (CEO), 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.

USCIS denied the petition, concluding that the record did not establish that the Petitioner had received 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 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 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

In his initial filing, the Petitioner claimed to have extraordinary ability in the field of social entrepreneurship. He plans to establish a company in [redacted] Georgia specializing in medical equipment integration, healthcare technology consulting, and professional training services. Because the Petitioner has not indicated or established that he received a major, internationally recognized award, he must establish at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner initially claimed four criteria relating to published materials, original contributions, leading or critical role, and high salary. USCIS determined the Petitioner satisfied two of the criteria relating to published materials and leading or critical role. On appeal, the Petitioner continues to assert he meets the evidentiary criteria relating to original contributions and high salary. For the reasons discussed below, the Petitioner does not demonstrate he meets at least three categories of evidence.[1]

A. 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 petitioner may show that his or her contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major

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

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).

The Petitioner contends he meets this criterion because he developed a "first-of-its-kind, groundbreaking public-private partnership (PPP) model" that has transformed Nigeria's healthcare infrastructure. The record includes various letters of support and media articles about his hospital rehabilitation project, along with the Petitioner's proposal to the Nigerian president, documents about the hospital rehabilitation project from the Petitioner's company, reports from the Nigerian government, and written endorsements and commitment to the hospital rehabilitation project from the Nigerian government.

USCIS first determines whether the person has made original contributions in the field. *Id.* Here, the evidence does not show that the Petitioner is the original creator of the PPP model. Instead, it appears that he used an existing project delivery and procurement model to rehabilitate the hospitals in Nigeria. For instance, the letter from the Former Minister of Health in Nigeria states that the Petitioner adopted the PPP model to finance and execute the healthcare projects in Nigeria. Without more, the Petitioner has not established how implementing a model that was already in use between governments and private entities is an original contribution.

Accordingly, the Petitioner does not demonstrate he satisfies this criterion.

B. 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." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. Comparative wage or remuneration data that is appropriate for the alien's occupation and location should be submitted to establish that their compensation is high relative to others working in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner submitted a letter from his company's finance director. The finance director states that the Petitioner "does not receive a regular salary from our company. Instead, he receives payments for professional services rendered in his capacity as CEO/Chairman of [redacted]." The finance director also states that in 2024, the Petitioner received a total of ₦64,600,000.00 for his services. The Petitioner provided payment slips from September 2024 through February 2025, which range from ₦9,500,00 to ₦12,000,000 a month. In addition, he submitted a printout from *Payscale* which shows that the average base salary for a CEO in Nigeria is ₦5,100,681 per year and that the 90th percentile wage is ₦48,000,000 a year in 2025, based on "65 salary profiles," but the data does not indicate it

was for the Petitioner's field of social entrepreneurship. Furthermore, the Petitioner highlights on appeal the *Proshare* report that was submitted in response to USCIS' request for evidence, which lists the top 10 CEOs in Nigeria and their salaries for 2023. He asserts that "[b]y commanding a salary that would place him securely within the top 10 highest-paid CEOs in Nigeria," he satisfies this criterion. Notably, the list of the top 10 CEOs in Nigeria shows that they are from various industries, such as oil and gas, and construction and real estate.

Broad descriptions that include multiple occupations or multiple industries may not provide an accurate comparison to others in the field. *Id.* The regulatory requirement that the commanded salary be high "in relation to others in the field" is interpreted as allowing comparisons to those employed in the same industry and occupation at a similar level. S*ee Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen).

Because the Petitioner has not provided sufficient evidence demonstrating the salaries or remuneration of other CEOs in the social entrepreneurship field, he has not established that he has commanded a high salary or other significantly high remuneration for services in relation to others in the field.

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*, 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).

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.