U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38851674

Date: AUG. 22, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an information security analyst in the field of information technology (IT) and cybersecurity,[1] seeks classification as an individual of extraordinary ability.[2] Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b0(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 record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria for this classification, as required. 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

An alien is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and his or her achievements have been recognized in the field through extensive documentation; he or she seeks to enter the United States to continue work in the area of extraordinary ability; and his or her entry will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

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[1] Whilst the Petitioner may have identified different roles that she could undertake (information security analyst or CEO), she has consistently maintained the field of IT and cybersecurity as the one within which she claims extraordinary ability.

[2] We note the petition contains a number of references to the employment based second preference category and national interest waiver of the job offer, and thus labor certification requirement, in the Petitioner's brief and supporting evidence. But, the Form I-140 filed by the Petitioner indicates she seeks classification as an alien of extraordinary ability and we will adjudicate this appeal accordingly.

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 a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then the petitioner must provide documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) to (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 the petitioner 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 filed of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010); *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

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(ii)(i)-(x). In the initial petition, the Petitioner claimed to satisfy five criteria. In response to SCOPS' request for evidence (RFE), the Petitioner wholly abandoned one criteria and provided further detail in connection with the remaining four criteria. SCOPS evaluated the claims the Petitioner made in the initial petition and in response to the RFE and concluded the Petitioner did not satisfy any of the criteria she claimed over the course of the proceedings. On appeal, the Petitioner claims the same four criteria she discussed in her response to SCOPS' RFE. After reviewing all the evidence in the record, we conclude the Petitioner has not demonstrated eligibility for this highly restrictive immigrant classification for the reasons we will discuss below.

1. "Documentation 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." 8 C.F.R. § 204.5(h)(3)(ii)

In order to satisfy this criterion, the Petitioner must show that the association for which she claims present or past membership requires that members have outstanding achievements in the field, as judged by recognized experts in that field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Examples of associations in the field requiring outstanding achievements of their members may include a membership in certain professional associations and a fellow with certain organizations or institutions. *Id.*

Associations may have multiple levels of membership, and the level of membership afforded to the person must show that in order to obtain that level of membership, recognized national or international experts judged the person as having attained outstanding achievements in the field for which

classification is sought. *Id.* Relevant factors that may lead to a conclusion that the person's membership in the association was not based on outstanding achievements n the field include instances where the person's membership was based solely on (1) a level of education or years of experience in a particular field, (2) the payment of a fee or by subscribing to an association's publications, and (3) a requirement for employment in certain occupations, such as union membership or guild affiliation for actors. *Id.*

The Petitioner claims her membership in [redacted] and [redacted] fulfills this criterion. The Petitioner describes [redacted] as "a global network" connecting "IS/IT professionals" and "offering opportunities for career growth, learning, and community engagement." The record contains a certificate reflecting that the Petitioner "has been admitted…as a member of the association." The record also contains a web page excerpt providing additional information about [redacted] But the evidence in the record does not adequately establish if admission "as a member of the association" is contingent upon the Petitioner having attained outstanding achievement in her field as determined by recognized experts in the field. The Petitioner has not submitted evidence demonstrating the requirements for membership in the organization. So, the Petitioner's membership in [redacted] is not sufficient to support fulfillment of this criterion.

The Petitioner alternatively bases a claim of eligibility under this criterion on account of her membership in [redacted] is "an invitation-only network designed for C-Level executives" and the Petitioner states membership is composed of "Brazil's most accomplished business leaders." The record contains a letter from [redacted] CEO [redacted] asserting the Petitioner was "invited to join the community based on her exemplary leadership and significant impact within the business sector."

But the Petitioner's membership in [redacted] does not support her claim to eligibility on a number of different fronts. Firstly, the record does not demonstrate that [redacted] occupies a space in the field of "IT and cybersecurity" as an "association" as required by the regulation. The letter the Petitioner submitted into the record describes [redacted] as a "social network" but does not describe what a "social network" is and how it is analogous to "an association" as described in the regulation. Moreover, it is not evident from the record that [redacted] is related to the "IT and cybersecurity" field the Petitioner claims extraordinary ability in. The [redacted] letter expressed "promot[ion] and encourag[ing] strategic networking among executives in Brazil" as the field it is associated and related to. And the record does not contain any evidence that preponderantly describes the standards or requirements of membership other than membership being extended by invitation only "based on exemplary leadership and significant impact." So, as the Petition has not established that the associations the Petitioner claims to be a member of require outstanding achievements of its members as judged by experts in her field, the Petitioner did not demonstrate that she fulfills this criterion.

2. "Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." 8 C.F.R. § 204.5(h)(3)(ix).

In order to satisfy this criterion, the Petitioner must show that the person's salary or remuneration is high relative to the compensation paid to others working in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. USCIS determines whether the USCIS does

not interpret the phrase "has commanded" to mean that the person must have already earned such salary or remuneration in order to meet the criterion. Rather, a credible contract or job offer showing prospective salary or remuneration may establish that the person has been able to command such compensation. *Id.*

Evidence regarding whether a petitioner's compensation is high relative to what of others working in the field can include compensation surveys and organizational justifications so long as the description of the occupation matches, the validity of the survey is credible and reliable, and the location, currency, and salary rate being measured are comparable. *Id.*

In support of her commanded salary, the Petitioner submitted a printout from her employer [redacted] internal pay and benefit system reflecting her year-to-date salary as of November 30, 2023 as $154,628.94. In response to SCOPS' RFE, the Petitioner submitted an excerpt from the *USCIS Policy Manual*, her 2023 USIRS Form W-2, and a "salary calculator report" from salaryexpert.com reflecting results for "information security analyst" in [redacted] Texas and supporting documentation describing the reliability of results from salaryexpert.com.

The survey from salaryexpert.com does not identify the pool of survey respondents informing the "salary calculator report" results. It is unclear if the results merely reflect an average, mean, or media or reflect the salaries of other "high earners." Moreover, it is unclear from the "salary calculator report" what job or occupation it pertains to. Whilst we note the job title for the "salary calculator report" corresponds to the work and field in which the Petitioner claims extraordinary ability, the record does not reflect the job duties performed by the holders of the title that responded to the survey undergirding the "salary calculator report." 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 occupation at a similar level. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also 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). So, we are unable to determine if the Petitioner's salary is high compared to other working in the field.

3. We Reserve the Remaining Claimed Criteria

We note the Petitioner claims she met an additional two criteria related to performing in a leading or critical role for organizations or establishments that have a distinguished reputation and receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. However, as noted above, the Petitioner's unsuccessful demonstration of her eligibility under the criteria we discuss means she cannot numerically meet the required number of at least three criteria out of the 10 available and the four she claimed. Accordingly, discussion of the Petitioner's remaining claims would serve no legal purpose and we reserve them. *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).

B. Final Merits Determination

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we do not need to provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification that is intended for individuals already at the top of their respective fields, rather than those progressing towards the top. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league athletes do not automatically meet the statutory standards for classification as an individual of extraordinary ability; *Visinscaia*, 4 F.Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design"). The record does not demonstrate that the Petitioner has achieved a degree or recognition indicative of the required sustained national or international acclaim or that the Petitioner's work is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Re. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered sustained national or international acclaim in the field and that the Petitioner is one of the small percentage to have risen to the very top of the field. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated eligibility for immigrant classification as an individual of extraordinary ability. The appeal will be dismissed for the above-mentioned reasons.

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.