U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43140634

Date: AUG. 24, 2026

Appeal of United States Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a palliative and home care nurse, 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 that the record did not establish that the Petitioner met the initial evidence requirement for this classification through evidence of a one-time achievement (a major, internationally-recognized award) or by satisfying at least 3 of the 10 evidentiary criteria under 8 C.F.R. § 204.5(h)(3). SCOPS also dismissed a subsequent motion to reopen.[1] The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

We issued a notice of intent to dismiss (NOID) in which we notified the Petitioner of derogatory evidence in the record and our intent to make a finding that she willfully misrepresented a material fact. We also pointed out deficiencies in the evidence relating to her claim under two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3) which SCOPS had determined she meets. The Petitioner's response will be discussed below.

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 and make a finding that the Petitioner materially misrepresented a material fact.

[1] The Petitioner indicated on the Form I-290B for her motion that she was submitting a motion to reopen only, but her brief indicated she was filing combined motions to reopen and reconsider. SCOPS' decision to dismiss the motion concluded that it did not include new facts or "give reasons for reconsideration supported by any pertinent precedent decisions."

I. LAW

To establish eligibility as an individual of extraordinary ability, a petitioner (or anyone on the petitioner's behalf) must establish that they:

- Have extraordinary ability in the sciences, arts, education, business, or athletics;
- Seek to enter the United States to continue work in their area of extraordinary ability; and that
- Their entry into the United States will prospectively substantially benefit the United States.

Extraordinary ability must be demonstrated by evidence of sustained national or international acclaim as well as extensive documentation that the petitioner's achievements have been recognized in the field. Section 203(b)(1) of the Act.

The implementing regulation further states that the term "extraordinary ability" refers only to those aliens in "that small percentage who have risen to the very top of the field of endeavor." A petitioner can demonstrate that they meet the initial evidence requirements for this immigrant visa classification through evidence of a one-time achievement (that is, a major, internationally recognized award). If such evidence is unavailable, then they must alternatively provide evidence that meets at least three of the ten listed criteria, which call for evidence about lesser awards they may have received, published material about them in qualifying media, and their authorship of scholarly articles, among other types of evidence. 8 C.F.R. §§ 204.5(h)(2),(3).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination, assessing whether the record shows that the alien possesses the acclaim and recognition required for this highly exclusive immigrant visa classification. *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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th. Cir. 2022).

II. ANALYSIS

The Petitioner is a registered nurse working in the areas of palliative care and home care. She holds a license as a registered nurse in the State of Montana and intends to continue to work as a nurse in the United States.

In her appeal brief, the Petitioner asserts that SCOPS erred in its motion decision by not considering new evidence relating to her membership in IEEE as a senior member. We acknowledge that the motion was accompanied by new evidence including a letter from IEEE and other information relating to the association and will consider that evidence below.

The Petitioner also asserts on appeal that SCOPS violated "fundamental administrative due process principles" by not issuing a second request for evidence (RFE) which identified specific deficiencies

in the evidence submitted in support of her claimed evidentiary criteria.[2] We disagree. Although 8 C.F.R. § 103.2(b)(8)(iii) gives USCIS the discretion to issue an RFE, neither the Act nor the regulations compel us to do so.

A. Willful Misrepresentation of a Material Fact

To establish willful misrepresentation of a material fact, an officer must find: 1) the alien procured or sought to procure an immigration benefit through 2) the presentation of a false oral or written statement to an official of the United States government 3) that was willfully made and 4) material to the alien's eligibility for the requested immigration benefit. *See* section 212(a)(6)(C)(i) of the Act, *see also Matter of Texperts, Inc.*, 29 I&N Dec. 491, 496 (AAO 2026) (collecting cases).

The Petitioner claims to have met the criterion at 8 C.F.R. § 204.5(h)(3)(vi), relating to her authorship of scholarly articles in her field of nursing, in part through evidence of a paper titled [redacted]. The complete copy of this paper initially submitted with her petition unambiguously indicates that it was published in *Iconic Research and Engineering Journals*, (*IRE*) [redacted] 2023, and a certificate from the journal, signed by its editor-in-chief, purports to verify this information. But as pointed out in our NOID, this paper lists several references with a publication date of 2025, indicating that the paper and certificate are not authentic or were altered.

In response to the NOID, the Petitioner submits a screenshot of the article from the *IRE* website and a new certificate from the editor-in-chief, both indicating that her paper was published in [redacted] of the journal in [redacted] 2025. She asserts that the current version of the article, available on *IRE*'s website, is "the most reliable record of when the article was actually published, superseding any inconsistency that may have appeared in a separately issued certificate."[3] The Petitioner further asserts that "typographical or system errors" led to the production of the earlier certificate, which has now been corrected through the issuance of the new certificate. But she does not explain why both the certificate and the complete copy of the article submitted initially were in agreement regarding the purported date of its publication, or why she did not notice the error in the date of publication in both documents when the paper was purportedly published in [redacted] 2025. This is particularly relevant regarding a paper in which the Petitioner claims to have invested time and effort in researching and writing as the sole author, and then submitted for both peer and editorial review to an asserted respected journal.

[2] The RFE issued by SCOPS noted that the evidence submitted by the Petitioner reflected various aspects of nursing including public health, health education, and women's health, and instructed her to "select only one area of expertise, verse an entire broad field." For each criterion claimed by the Petitioner, the RFE repeated this instruction. We note that SCOPS' denial decision raised the issue of the Petitioner's area of expertise and the applicability of certain evidence only in the context of the evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(viii).

[3] While we do not base our decision on this information, we note that information found on the Wayback Machine Internet Archive, www.web.archive.org, accessed on August 19, 2026, conflicts with the Petitioner's assertions. The archive shows that as of [redacted] 2023, the online version of *IRE* [redacted] 2023) did not include the Petitioner's paper among the 29 included at that point, but that the online version as of [redacted] 2025 did include her paper as the [redacted] listed paper of 57. In addition, the online versions of *IRE* [redacted] 2025) as of [redacted] 2025 and [redacted] 2026 did not include the Petitioner's paper among the 85 and more than 100 papers included in those versions.

In addition, the Petitioner admits that the new certificate was issued more than a year after the new purported date of publication, only after she was alerted to the date inconsistency through our NOID, yet does not explain why we should consider it to be any more credible than its predecessor. The article as written could not have been published in [redacted] 2023 as shown in the evidence initially submitted, and the evidence submitted in response to our notification to the Petitioner of that fact is insufficient to resolve the concerns expressed in the NOID.

Also, the information in at least one of the listed references in this paper indicates that it could not have been published in [redacted] 2025 either. Specifically, the reference paper [redacted]' was published in [redacted] of *Brazilian Journal of Development*. While the reference included in the Petitioner's paper does not provide a date of publication of that edition, the journal's website[4] shows that it was published on [redacted] 2025, two months after the Petitioner now claims her paper was published. Thus, the new evidence introduced by the Petitioner in response to our NOID serves to add to the inconsistencies in the record regarding this paper, and evidences further misrepresentation by her.

The totality of the evidence regarding this paper, including the Petitioner's response to our NOID, shows that she misrepresented, and continues to misrepresent, the publication date of '[redacted]'." *See generally* 8 *USCIS Policy Manual* J.3(C)(1), www.uscis.dhs.gov/policy-manual (stating that an alien may make a misrepresentation by submitting evidence containing false information). Additionally, by submitting the falsified evidence with her immigrant petition, the Petitioner sought to procure an immigration benefit through the presentation of this false information to an official of the U.S. government. *See* section 212(a)(6)(C)(i) of the Act.

She asserts on appeal that the errors in the certificate and the initial full copy of the paper were out of her control and should be attributed only to the publisher of the journal. However, as we stated in our NOID, a person's signature on an immigration form establishes a strong, rebuttable presumption that the signer knows of and has assented to the false contents of a benefits request. *Matter of A.J. Valdez and Z. Valdez*, 27 I&N Dec. 496, 498-99 (BIA 2018). When the Petitioner signed her Form I-140, Immigrant Petition for Alien Workers, she certified, under penalty of perjury, the following:

> "I certify, under penalty of perjury, that I have reviewed this petition, I understand all of the information contained in, and submitted with, my petition, and all of this information is complete, true and correct."

Additionally, the USCIS "Instructions for Petition for Alien Worker" include at page 9, this warning:

> "If you knowingly and willfully falsify or conceal a material fact or submit a false document with your Form I-140, we will deny your petition and may deny any other immigration benefit. In addition, you will face severe penalties provided by law and may be subject to criminal prosecution."

As such, when the Petitioner signed her Form I-140, her signature created a strong presumption that she had knowledge of the petition's contents and assented to them. *See Matter of A.J. Valdez and Z.*

[4] https://ojs.brazilianjournals.com.br/ojs/index.php/BRJD/issue/view[redacted] accessed on August 19, 2026.

Valdez, 27 I&N Dec. at 499-500. And this is especially true for a document that the Petitioner claims to have researched, authored, and submitted for peer and editorial review. We therefore conclude that the misrepresentations regarding this paper were made by the Petitioner willfully.

Information is "material" when it has a "natural tendency to affect the official decision" of an adjudicator or "tends to shut off a line of inquiry . . . that would predictably have disclosed other [relevant] facts." *Matter of Mensah*, 28 I&N Dec. 288, 293 (BIA 2021) (quoting *Kungys v. United States*, 485 U.S. 759, 771 (1988) and *Matter of D-R-*, 27 I&N Dec. 105, 113 (BIA 2017) (cleaned up)). The paper and the certificate were submitted to support the Petitioner's claim under the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(v) and (vi) and pertain to whether she has sustained national or international acclaim as required at section 203(b)(1)(A) of the Act. They were thus material to her petition for classification as an alien of extraordinary ability.

The Petitioner's response to our NOID lacks the necessary details and corroborating documentation to overcome the issues detailed above. We find that the weight of the evidence demonstrates that the Petitioner's submission of the *IRE* article constituted the presentation of false documentation to an official of the U.S. government that was willfully done and material to her eligibility for the requested benefit. *See Matter of Texperts*, 29 I&N Dec. at 496. Accordingly, we conclude that the Petitioner willfully misrepresented facts that are material to her petition for classification as an alien of extraordinary ability. Section 212(a)(6)(C)(i) of the Act. USCIS and other agencies can take this finding into account in future proceedings in determining the Petitioner's admissibility.

B. Evidentiary Criteria

Because the Petitioner has not indicated or established that she 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)(i)-(x). SCOPS concluded in its initial decision that the Petitioner met two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to published material about her and her work in the field and her authorship of scholarly articles in the field. On appeal, the Petitioner asserts that she also meets the evidentiary criteria relating to her membership in associations in the field requiring outstanding achievements, her original contributions of major significance to the field, and her leading or critical role for organizations with a distinguished reputation. The Petitioner also submitted new evidence relating to the criteria at 8 C.F.R. § 204.5(h)(3)(iii) and (vi) in response to our NOID. After reviewing all of the evidence in the record, we disagree with and withdraw SCOPS' determination regarding the criterion at 8 C.F.R. § 204.5(h)(3)(iii) and conclude that the Petitioner has not established that she meets the initial evidence requirement for classification as an alien of extraordinary ability.

1. Evidence of Membership in Associations Requiring Outstanding Achievements of Members

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation 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." If membership in an association in the petitioner's field has been established, we determine whether the association requires those at the petitioner's level of membership to have attained outstanding achievements in the field. *See generally* 6 *USCIS Policy Manual supra at* F.2(B)(1).

Here, the Petitioner relies only on her membership in IEEE on appeal. The evidence establishes that she was a member of this association at the time she filed her petition in June 2025, as shown by the "Certificate of IEEE Membership" submitted with her initial filing. This evidence does not indicate that she was a senior member as she claims. While she did not submit further evidence when responding to SCOPS' request for evidence (RFE), she included a copy of a different card stating that she was an IEEE member through December 31, 2025 when submitting her motion to reopen. This was accompanied by a letter dated July 17, 2025 from IEEE which congratulates her on elevation to an IEEE senior member. But a petitioner must establish eligibility for the requested classification at the time their petition was filed. *See* 8 C.F.R. § 103.2(b)(1); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Because the evidence indicates that the Petitioner achieved senior member status more than a month after she filed her petition, she cannot rely upon that status to qualify for this criterion.[5] For this reason, she has not demonstrated that she meets this criterion.

2. Published Material About the Petitioner Relating to Their Work in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) seeks "[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." It also requires that such evidence includes "the title, date, and author of the material, and any necessary translation." 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 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. *See generally* 6 *USCIS Policy Manual supra* at F.2(B)(1).

We previously identified five documents submitted in support of this criterion and the various deficiencies in this evidence, stating that none of them met the plain language of this criterion and that we therefore intended to withdraw SCOPS' favorable determination regarding this criterion. In response, the Petitioner submits additional evidence and assertions which we will address below.

To supplement the screenshot of a video posted to an unknown YouTube channel, the Petitioner submits two additional screenshots which still do not identify the channel on which they were posted. Despite her invitation to use the YouTube link shown, the video was reported as unavailable. And as stated in our NOID, the [redacted] logos which appear in the screenshots are insufficient to establish that the video was posted to a YouTube channel belonging to either the network or the program. While a new letter from the presenter pictured in these screenshots asserts that this segment was aired "on open TV by [redacted] and, later, nationally through digital platforms," the documentary evidence does not corroborate this statement. As the evidence does not establish that this video was published in a professional or major trade publication or other major medium, it does not meet the plain language requirements of this criterion.

A copy of a blog written by the same person identified as the presenter shown in the screenshots above was also submitted, which indicated that it was published as a blog on the web portal terra.com.br.

[5] The Petitioner does not assert on appeal, nor does the record show, that she meets this criterion based upon her IEEE Member status at the time she filed her petition.

We notified the Petitioner that the website traffic statistics for the web portal in general could not be attributed to this blog, and thus did not establish that it was published in major media. In response, the Petitioner asserts that blogs are common within major news portals in Brazil, and that since it is "hosted, indexed, and distributed through the same infrastructure and audience as the main portal" "the editorial reach of the content" is not diminished. However, just as we cannot attribute the number of visitors to the YouTube website to every channel on YouTube in determining whether it constitutes a major medium, we cannot attribute the total traffic on a web portal to every channel or blog on that portal. *See Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *4 (N.D. Tex. Sept. 2, 2022) (upholding that a separate channel of the website of a professional journal required circulation information for the channel itself to qualify as a major medium). As the Petitioner has not submitted evidence regarding circulation, viewership, or website statistics for the blog which posted this article, she has not established that it was published in a major trade medium.[6]

Turning to a group of three articles with titles mentioning the Petitioner and palliative care, we previously stated that none included a date of publication, author, website address, or any other hint of publication. The Petitioner responds by asserting that one of them was published on "NewsBreak" and provides a link. But as we noted at the outset, it is the Petitioner's burden to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). The submitted evidence carries no indication of having been published on NewsBreak or any other medium, and does not show the asserted author and publication date information. Therefore neither it nor the other two articles meet this criterion.

Regarding the article on the BigNewsNetwork.com website, we stated in our NOID that it did not include the required information about an author. In her response, the Petitioner asserts that the notation "Business NewsWire" refers to a "press-release distribution agency" and "reflects the outlet's own editorial convention." Assuming the Petitioner's assertion to be accurate, this information does not reveal the source of the press release, only the name of the entity which distributed the press release. The purposes of the requirement of an author's name is for verification purposes and to prevent an alien from submitting marketing or self-promotional material, which as mentioned in our NOID is not considered under this criterion. Since the evidence does not reveal the author of this material, it cannot meet the criterion's requirements.

Finally, while we stated that the article posted on the TechBullion website included author, publication and date information, the Petitioner had not established that it had been published in a qualifying medium. The Petitioner responds by asserting that the website is not limited to "fintech news and information" as stated in the SimilarWeb profile, but also published articles in other topics including health. Not only is this assertion not supported in the record, but it does not suggest that this website is a professional publication in the Petitioner's field of nursing. And as the Petitioner does not respond to our statement that the evidence does not show that TechBullion qualifies as a major medium, she has not established that this article was published in a qualifying publication.

For all the reasons stated above, we disagree with and withdraw SCOPS' favorable determination regarding this criterion and conclude that it has not been met.

[6] The Petitioner does not assert that the blog is a professional or major trade medium.

3. Original Contributions of Major Significance in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(v) seeks "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only have they made original contributions, but that those contributions have been of major significance in the field. For example, a petitioner may show that the 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 v. Beers*, 4 F. Supp. 3d 126, 134-5 (D.D.C. 2013).

In making her claim to this criterion, the Petitioner initially referred to several articles on which she is listed as an author that were published in scientific journals.[7] She asserted that the originality of these articles is premised upon their review through each journal's peer review process, and that the content of each article constitutes a contribution of major significance based upon factors such as the impact factor of the journal in which it was published and the potential applicability of the content to the improvement of palliative care and home care.

We note that a separate criterion under 8 C.F.R. § 204.5(h)(3)(vi) calls for evidence of the authorship of scholarly articles in one's field of expertise, which we will address below. Accordingly, a petitioner cannot show that they have made contributions of major significance to their field solely though evidence of their publication of scholarly articles. *See generally* 6 *USCIS Policy Manual supra* at F.2(B)(1). Indicators of major significance depend greatly upon the nature of a petitioner's field and work, but may include published materials written by others about their work and/or evidence of citation to a petitioner's published work at a level commensurate with major significance. *Id.*

Here, the Petitioner has not presented evidence that her published articles have been cited by others or that they have otherwise had any impact or influence on the broader field of nursing. And while the media articles discussed above generally describe the Petitioner's career in exaggerated terms, the evidence does not indicate that they were written by experts in the field of nursing who would have the knowledge to judge her achievements. This evidence therefore does not support the major significance of the accomplishments discussed in those articles, which included her authorship of articles published in scientific journals.

In concluding her discussion of this criterion in her initial submission, the Petitioner stated the following:

> **Each article represents an original, innovative, and applied contribution, addressing issues relevant to the fields of geriatric nursing, palliative care, health technology, geriatric nutrition, and health systems management for the elderly population.** My publications stand out not only for their robust theoretical foundation, but mainly for the development of original frameworks and empirically validated

[7] SCOPS mentioned this criterion in their RFE, but did not address it in their decision. In her motion, the Petitioner brought attention to the fact that it had not been evaluated in SCOPS' decision, and asks that we review the evidence de novo on appeal.

> methodologies that offer practical and measurable solutions to contemporary challenges in the care of the elderly (emphasis in original).

The Petitioner's claims of innovation and implementation of her work, however, are not supported in the record with documentary evidence. In addition, her assertion regarding the "robust theoretical foundation" of her work is undermined by the multiple discrepancies and anomalies in that work which will be detailed in our analysis of the criterion at 8 C.F.R. § 204.5(h)(3)(vi) below. While she stresses traffic data from the websites of some of the journals in which her publications appeared and the international circulation of those journals, the availability of her work is of minimal relevance to its effect on or implementation in the field of palliative and home nursing care.

Further, although not specifically referenced by the Petitioner in her discussion of this criterion, the record includes several reference letters. The authors of these articles describe the Petitioner's work in her home municipality in Brazil, such as her efforts to improve public health and awareness and the improvements to nursing education she made in administrative positions for a regional technical training institution. Her former colleagues and superiors praise her work in various projects and roles, but do not suggest that it influenced others in her field beyond those employers and institutions.

As the Petitioner has not established that she made original contributions of major significance in palliative and home nursing care, she does not meet this criterion.

4. Authorship of Scholarly Articles in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) calls for "[e]vidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." In academia, a scholarly article reports on original research, experimentation, or philosophical discourse, is generally peer reviewed, and may be published in professional or scientific journals or conference presentations. In other fields, a scholarly article should be written for others having profound knowledge in the field. *See generally* 6 *USCIS Policy Manual supra* at F.2(B)(1).

To determine whether the publication qualifies as a professional or major trade publication or other major media, we consider such relevant factors as the circulation or readership relative to other media in the field and the intended audience (for professional journals). *Id.*

The Petitioner submitted copies of five articles which she authored or co-authored and were published in scientific journals.[8] All five articles deal with aspects of caring for the elderly, including palliative and nutritional care. SCOPS determined that the Petitioner met this criterion but did not provide an analysis of the evidence. While we ultimately agree with SCOPS' determination, per the discussion below this conclusion is based solely on the article published in *Journal of Social Issues and Health Sciences*.

[8] The Petitioner asserts that she also authored a sixth article which was published in *International Seven Multidisciplinary Journal*, but this article does not appear in the record.

In our NOID, we pointed out that four of those articles, all of which the Petitioner claims to have solely authored, contained several common references[9] which appeared to have no relation to the subject matter of the articles, with topics in their titles including oil drilling, artificial intelligence (AI) and cybersecurity, and urban revitalization. And we explained that the inclusion of these apparently anomalous common references in the papers represented discrepancies which it was the Petitioner's burden to resolve. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The Petitioner's response does not include additional documentary evidence which might resolve the noted discrepancies. Instead she offers assertions and speculation, including suggesting that she did not have editorial control over the final list of references to her self-authored papers. None of these assertions are supported by documentary evidence about the anomalous references or from the publishers of the journals in which the Petitioner's paper appeared. She states that the references to AI "may have been used as a methodological reference on AI applications in general," reflecting unawareness of how information from the referenced materials applied to the papers she claims to have written.

We also pointed out an anomalous graph in the paper published in *Revista FT* labelled "AI impact in mines according to employees," which together with the references raised significant questions about the scholarly nature of the paper and the journal's peer-review process. The Petitioner responds by asserting that this isolated formatting error does not otherwise compromise the article. Although we acknowledge that mistakes may occur "even in publications of internationally-indexed and well-regarded journals," we do not view this error in isolation but together with the unresolved anomalous references and the misrepresentation regarding the date of publication for the article in *IRE* discussed above. These issues display a pattern that undermines the claimed scholarly nature of the Petitioner's published work and the quality of the journals in which that work appeared.

In addition, the previously noted discrepancies and errors are not the only ones evident in these four papers. For example, the Petitioner's papers appearing in *International Journal for Multidisciplinary Research* and *Brazilian Journal of Health Review* don't just include the anomalous references previously noted, they list them more than once. Because the Petitioner has not resolved these discrepancies or credibly explained how the multiple anomalous references support the subject matter of her papers, she has not established that the papers appearing in these four journals are scholarly in nature.

As the Petitioner's paper published in *Journal of Social Issues and Health Sciences* meets the plain language of this criterion, we conclude that the Petitioner has established by a preponderance of the evidence that she meets this criterion.

5. Other Evidentiary Criteria

The Petitioner also asserts that she meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii) relating to her performance in a leading or critical role for organizations having a distinguished reputation. But as explained above, she has established that she meets only one of the other criteria which she claims to meet. As the Petitioner cannot fulfill the initial evidentiary requirement by meeting at least three

[9] For brevity, we did not list all of the common anomalous references in the four articles in our NOID.

criteria under 8 C.F.R. § 204.5(h)(3), the identified basis for denial is dispositive of the appeal. We therefore reserve the issue of whether the Petitioner meets this criterion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

C. Final Merits Determination

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.

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. Because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that she 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).

III. CONCLUSION

The Petitioner has not established that she meets at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3), and thus does not meet the initial evidence requirements for classification as an alien of extraordinary ability. Further, while she has experience working as a nurse and in related training and administrative roles, she has not shown a degree of sustained recognition of her work that rises to the level of national or international acclaim and demonstrates a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sep. 19, 1990). And the record does not demonstrate that the Petitioner is one of the small percentage who has risen to the very top of the field of endeavor. See section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). She has therefore not demonstrated eligibility as an alien of extraordinary ability, and her petition remains 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.