U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39460785

Date: AUG. 25, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a "media entrepreneur," seeks classification as "an alien of extraordinary ability." 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.

SCOPS denied the petition, concluding that the record does not establish the Petitioner received a one-time achievement of a major, internationally recognized award or, in the alternative, that she met at least three of the initial evidentiary criteria, 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

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 sustained acclaim and the recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the 10 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).

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. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010).

II. ANALYSIS

In denying the petition, SCOPS determined that the Petitioner did not fulfill any of the claimed evidentiary criteria, despite claiming to meet eight of the ten required criteria. On appeal, the Petitioner submits a brief and reasserts her qualifications for five criteria. Issues and prior eligibility claims not raised on appeal are waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)). After reviewing all of the evidence, the record does not reflect that the Petitioner satisfies the requirements of at least three criteria.[1]

A. Evidentiary Criteria

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

This criterion contains several evidentiary elements, all of which must be met to satisfy the regulation. According to the plain language of the regulation the evidence must establish: (1) the alien is the recipient of the prizes or the awards; (2) those accolades are nationally or internationally recognized; and (3) each prize or award is one for excellence in the field of endeavor. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field including, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors. 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner asserts that she is a "leading figure in new media entrepreneurship and digital marketing" and the "Founder and Creative Lead at [redacted], a leading lifestyle

[1] While we may not discuss every document submitted, we have reviewed and considered each one.

and entertainment platform based in [redacted], Nigeria.[2] She contends that "she has transformed [redacted] from a solo venture to a team of fifteen within five years, serving over 350 unique brands; her company boasts "consistent attainment of high engagement rates and brand visibility, leading to steady year-on-year revenue growth for the [redacted] brand;" and [redacted] has collaborations with "leading global brands such as [redacted] and [redacted] Nigeria."

The Petitioner submitted evidence relating to her receipt of the following awards: (i) 2016 [redacted]; (ii) 2016 [redacted] presented by the [redacted]; (iii) 2021 [redacted]; (iv) 2023 [redacted] presented by [redacted] (v) 2018 [redacted] presented by [redacted] Awards; and (vi) 2019 [redacted] Award presented by [redacted]

SCOPS determined that the Petitioner did not meet this criterion because she did not submit objective documentary evidence establishing that the awards were for excellence in her field; the criteria used to grant the awards; or that the awards were nationally or internationally recognized, as required.

On appeal, the Petitioner asserts that SCOPS acknowledged that "she received several awards including the [redacted] 2023 but incorrectly concluded there was insufficient evidence that these awards are nationally recognized." She further asserts that "[t]he record contains articles about the award ceremonies and information about the awarding associations that, when viewed in the totality of the evidence, establish the national recognition of these awards in Nigeria's digital media industry."

As noted by SCOPS, the Petitioner did not submit documentation establishing the specific criteria used to grant any of the awards she received. While the Petitioner submitted an article relating to her [redacted] Award, indicating that she was one of 20 recipients of the award for "exemplary leadership," the Petitioner did not submit documentary evidence of the criteria used to grant the award or evidence demonstrating that the award was related to excellence in her field of endeavor – new media entrepreneurship and digital marketing.[3] With respect to the [redacted], while the award appears to be related to her field of endeavor, in addition to insufficient evidence of the specific criteria used to grant the award, the website indicates that individuals can nominate themselves.[4] Because this award is not the result of an exclusive nomination process which generally signifies a high level of prestige and recognition, it does not reflect that the recipients are specifically chosen for excellence in their field or that there are any limitations on competitors' participation in the award process. In addition, while the Petitioner's Social Media [redacted] Award, and [redacted] Award appear to be related to her field of endeavor, the record does not establish these

[2] We note here that the record contains inconsistent evidence regarding the Petitioner's association with [redacted]. While she asserts that she founded [redacted] in 2014 and is the creative lead at the company, the record contains a January 2024 letter from a Human Resources Manager at [redacted] offering the Petitioner a position of Senior Director of Marketing and Strategic Initiatives. The letter states "[u]pon acceptance, our HR team will reach out with additional paperwork and information about our onboarding process. We are excited about the prospect of you joining the [redacted] family.

[3] The Peak Performer website indicates that the award celebrates peak performers in the following categories: (1) 40 under 40 emerging leader; (2) women in leadership; (3) senior leaders; (4) legacy awards; and (5) organizations.

[4] https://[redacted].com

accolades are nationally or internationally recognized. As such, the Petitioner has not established that she meets this criterion.

> *Published 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. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

In order to fulfill this criterion, the Petitioner must demonstrate published material about her in professional or major trade publications or other major media, as well as the title, date, and author of the material. The Petitioner submitted several articles about her work published by Nigerian media outlets, including a book review published by [redacted] an article about her blogging career published by [redacted] and an article regarding [redacted] hosting of a conference published in the [redacted]; and articles published on her own website.

On appeal, the Petitioner asserts that SCOPS improperly dismissed articles from [redacted] and [redacted] without properly evaluating their status as major media within Nigeria and "applying an inappropriately U.S.-centric standard rather than considering the publications significance within Nigeria's media landscape, where they are recognized as major media outlets." However, with respect to [redacted] article, the Petitioner submitted a [redacted] printout showing statistics for the website [redacted], the United Kingdom publication rather than guardian.ng, the Nigerian publication where the article appeared. The Petitioner also submitted a [redacted] printout showing statistics for the website [redacted] which published an article about the Petitioner's receipt of a monetary award in connection with the [redacted] and the company's commitment to women. The printout indicates that the website garnered 7.951 million monthly visits and 1.147 million "Monthly Unique Visitors," representing the online circulation. The [redacted] printout states that [redacted].com has a global rank of #28,308; a country rank of #128; and an industry rank of #382 among publishers of finance news. Here, the burden is on the Petitioner to establish that these figures establish that [redacted].com qualifies as major media. The [redacted] printout does not provide a comparison between nairametrics.com and other media sites in Nigeria, or industry sites worldwide. The Petitioner did not provide any data related to the circulation of [redacted] or the [redacted] or any evidence related to their classification as "major media." Therefore, the Petitioner has not met her burden to establish eligibility under this criterion.

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner submitted letters of recommendation to satisfy her eligibility for this criterion. She asserts that the letters attest to the impact of her company and the national and international recognition her work has received. SCOPS concluded that although the letters indicate that the Petitioner's work is original and of major significance in the field, she did not submit objective documentary evidence to support these claims.

On appeal, the Petitioner asserts that SCOPS improperly dismissed the letters of recommendation without considering them alongside evidence about her company and its impact in Nigeria's digital

media landscape, which in conjunction, suffices to establish her original contributions of major significance.

In order to meet the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has she made original contributions but that they have been of major significance in the field.[5] 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 in the field.

In the present case, the recommendation letters praise the Petitioner's entrepreneurial success as a founder and visionary in the new media sector; her "exceptional ability to navigate the complexities of new media;" her dedication to championing social causes; and her "innovative platform" that "bridged the digital divide, creating a space that not only informs and entertains but also empowers individuals across the nation." However, the letters do not contain specific, detailed information identifying her original contributions; demonstrating how she has influenced the overall field of new media entrepreneurship and digital marketing; or how she has impacted others' work in a tangible way – within Nigeria or internationally. Letters that specifically articulate how a petitioner's contributions are of major significance in the field and its impact on subsequent work are of evidentiary value.[6] On the other hand, letters that lack specifics of the petitioner's significant influence or contributions are not considered to be probative evidence that may form the basis for meeting this criterion.[7] Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that she has made original contributions of major significance in the field.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.* 8 C.F.R. § 204.5(h)(3)(vi).

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) requires "authorship of scholarly articles in the field, in professional or major trade publications or other major media."[8] 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." In assessing this regulatory criterion, USCIS first determines whether she has made *original* contributions in the field, and if so whether they were of "major significance in the field."[9] 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 v. Beers* at 134-135 (noting that "[a] Petitioner's work must significantly affect [his or her] field of endeavor").

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[5] *See* USCIS Policy Memorandum PM 602-0005.1, *supra,* at 8-9 (finding that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

[6] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

[7] *Id.* at 9. *See also Kazarian*, 580 F.3d at 1036, aff'd in part 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

[8] USCIS Policy Memorandum PM-602-0005.1.

[9] *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

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), www.uscis.gov/policy-manual.

The Petitioner claims eligibility for this criterion based on her authorship of her book [redacted] She asserts that SCOPS failed to consider this book as a scholarly contribution to the field of digital media and entrepreneurship despite evidence of its publication and recognition in the industry. However, the record does not contain documentary evidence supporting her claim, and there is no public information available to support the book's publication, aside from the Petitioner's post on her LinkedIn website. For these reasons, considered both individually and collectively, the Petitioner has not established that she has made original contributions or contributions of major significance in the field of new media entrepreneurship and digital marketing.

Lastly, on appeal, the Petitioner asserts that SCOPS did not appropriately apply the preponderance of the evidence standard. To determine whether a petitioner has established eligibility for a requested benefit by a preponderance of the evidence, we must examine each piece of evidence – both individually and within the context of the entire record – for relevance, probative value, and credibility. *Matter of Chawathe* 25 I&N Dec. 369. We did so here and concur with SCOPS that the record does not establish the Petitioner's eligibility as an individual of extraordinary ability.

III. CONCLUSION

The Petitioner also argues eligibility for evidence of participation as a judge of the work of others under 8 C.F.R. § 204.S(h)(3)(iv). In addition, she asserts that SCOPS erred in concluding that she misrepresented herself by submitting a plagiarized scholarly article as evidence of her eligibility under the criterion at 8 C.F.R. § 204.5(h)(3)(v), and on appeal she asserts that submission of another individual's article was accidental, inadvertent, not knowing, and intentional. However, we need not reach the additional ground or address the claim of misrepresentation because the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). We also need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Accordingly, we reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

Nevertheless, we have reviewed the record in the aggregate, concluding it does not support a determination that the Petitioner has established the acclaim and recognition required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level 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,"). Here, the Petitioner has not shown the significance of her work is indicative of the required sustained national or international acclaim or it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate the Petitioner has garnered national or international acclaim in the field, and she 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). For the reasons discussed above, the Petitioner has not demonstrated her 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.