U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37826208

Date: AUG. 26, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a physics research professor, seeks classification as an individual of extraordinary ability. *See* section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id.*

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the Petitioner had not established she had a major, internationally recognized award, or that she met at least three of the ten regulatory criteria. 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 immigrant visas available to individuals with extraordinary ability if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry will substantially benefit the United States prospectively. 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 of the evidence to determine whether a petitioner has sustained national or international acclaim and whether their achievements have been recognized in the field. First, a petitioner can provide evidence of either "a

major, international recognized award," or satisfaction of at least three of ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3).[1]

Where a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) then considers the totality of the material provided in a final merits determination and assesses 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, 1121 (9th Cir. 2010) (discussing a two-step 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); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual (providing, as guidance, USCIS' two-step extraordinary ability analysis).

II. ANALYSIS

The Petitioner has not indicated or established that she has received a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3) and must therefore satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In support of the appeal, the Petitioner submits a brief.

A. Evidentiary Criteria

SCOPS determined the Petitioner established the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(vi) by submitting evidence of authoring scholarly articles in the field in professional or major trade publications or other major media. We agree.

SCOPS, without providing any analysis, concluded that the Petitioner also satisfied 8 C.F.R. § 204.5(h)(3)(iv), which requires evidence of the Petitioner's participation as a judge of the work of others in the same or an allied field of specification for which classification is sought. We disagree. Types of judging that may qualify include serving as a member of a Ph.D. dissertation committee that makes the final judgment as to whether a candidate's body of work satisfies the requirements for a doctoral degree, or a peer reviewer for a scholarly journal or government research funding programs. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). In support of this criterion, the Petitioner provided letters evidencing her role as a thesis jury member, where she reviewed the research work submitted by students working to attain their bachelor's degree. Her role ensured students fulfilled all academic and research requirements set by the institution for degree attainment. She also submitted letters evidencing her work as a tutor where she guided students' work. However, she has not sufficiently established that she judged the work of "others in the same or allied field" for which classification is sought, as required under 8 C.F.R. § 204.5(h)(3)(iv), rather than candidates for entry into the field. Without more, we cannot conclude that she meets this criterion and we withdraw SCOPS determination to the contrary.

[1] 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. The Petitioner has not done so here.

On appeal, the Petitioner does not contest SCOPS findings that she did not establish her eligibility under 8 C.F.R. § 204.5(h)(3)(vii) and (x). We therefore deem her eligibility under these two criteria waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (stating any ground of ineligibility that is not raised on appeal is waived).

However, the Petitioner asserts she has established the remaining six criteria at 8 C.F.R. § 204.5(h)(3). We disagree. The Petitioner generally asserts that SCOPS did not address all the claimed evidentiary criteria, did not analyze the evidence, and did not fully explain the reasons for the denial. As discussed below, our review indicates SCOPS properly considered the petition and relevant evidence and its decision provided adequate notice regarding the deficiencies in the petition.

1. Adopt and Affirm in Part

The criterion at 8 C.F.R. § 204.5(h)(3)(i) requires evidence of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. According to SCOPS, the Petitioner did not demonstrate whether the certificates she submitted in support of this criterion by the [redacted] in Venezuela recognizing her as a researcher and by the [redacted] for her performance as a teacher are recognized beyond the organizers of the institutions awarding the recommendations or resulted in the Petitioner receiving widespread reporting and coverage. We agree. Further, SCOPS properly concluded that the evidence in the record also did not clearly explain the criteria used in granting the certificates, such as the number of candidates considered, the geographic scope from which candidates may apply, and the number of winners, to demonstrate the Petitioner is the recipient of nationally or internationally recognized prizes or awards for excellence in the field. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). We further add that the Petitioner has not established that these certificates of recognition meet the plain language requirement of being prizes or awards.

In order to meet 8 C.F.R. § 204.5(h)(3)(iii), a petitioner must establish that material has been published about them and their work in the field for which classification is sought, and that the medium in which the material was published was a professional or major trade publication or other major medium. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). SCOPS properly determined the Petitioner's evidence in support, consisting of articles that make no mention of her or her work or were published by her as co-author, and her uncorroborated claims of gaining recognition on social media, did not establish that these are articles or publications published about her or her work in professional or major trade publications or major media, or that any claimed published media about her had an audience intended for professionals or status as a major trade publication or other major medium.

In order to meet 8 C.F.R. § 204.5(h)(3)(ix), petitioners must demonstrate that their salary or remuneration is high relative to the compensation paid to others working in the field. The Petitioner submitted documents evidencing her pay and the average salary of Venezuelans. SCOPS properly determined the Petitioner did not submit sufficient evidence to compare her salary with others of the same position in the field. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1) (providing, as guidance, broad descriptions that include multiple occupations or multiple industries may not provide an accurate comparison to others in the field).

On appeal, the Petitioner does not address the insufficiencies raised by SCOPS with respect to the above three criteria. She merely reasserts, without corroboration, that her evidence meets these criteria. Therefore, we adopt and affirm SCOPS' analysis of 8 C.F.R. § 204.5(h)(3)(i), (iii), and (ix). *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

2. Remaining Evidentiary Criteria not Met

a. Membership in Associations

In order to satisfy the plain language of 8 C.F.R. § 204.5(h)(3)(ii), petitioners must demonstrate (i) membership in associations in the field for which classification is sought; and (ii) the association requires outstanding achievements of their members as judged by recognized national or international experts in their disciplines or fields. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1).

The Petitioner submitted letters indicating her membership in over twenty associations and committees at the [redacted]. In a recommendation letter dated February 2024, the author explained she was appointed by the faculty and members of the physics department of the University. SCOPS determined the Petitioner did not submit evidence that these memberships require outstanding achievements of its members, as judged by recognized national or international experts in their disciplines or fields. On appeal, the Petitioner's counsel argues the Petitioner's memberships are reserved exclusively for individuals of the University's academic staff, members are the most prestigious and well-known professors of Venezuela, and that the University is ranked among the top 1,200-1,400 universities worldwide. The record does not include supporting documentation of the University's ranking or evidence of the criteria for membership in the associations, and that membership is judged by recognized national or international experts. Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). As a result, the Petitioner has not demonstrated she satisfies this criterion.

b. Original Contributions of Major Significance

In order to meet the criterion at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that she not only made original contributions but that they have been of major significance in the field. Relevant supporting evidence may include, published materials, testimonials, letters, and affidavits about the significance of the person's original work; documentation that the person's original work was cited at a level indicative of major significance in the field; patents or licenses deriving from the person's work or evidence of commercial use of the person's work. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1).

The Petitioner submitted her published articles, along with a Google Scholar printout of the citation rates for her articles, and letters of recommendation. SCOPS determined that the Petitioner had not submitted independent objective evidence in support of this criterion to demonstrate her contributions as original and of major significance to the field. On appeal, counsel asserts that Petitioner's publications detail, for example, groundbreaking research on the structural, thermal, and optical

properties of various semiconductor materials. Counsel claims the Petitioner's work is original in its approach, employing innovative methodologies and exploring new hypotheses and significant in its implications for technology and industry, particularly in the development of advanced materials for electronic and photonic applications. However, here again, these assertions are not corroborated in the record and will not be given evidentiary weight. *See, e.g., Matter of S-M-*, 22 I&N Dec. at 51. The Petitioner's recommendation letters commented on her ability, skill, and knowledge but did not address how her contribution has impacted the field, for example, whether it has provoked widespread commentary on her contributions importance from others working in the field. Further, while the Petitioner provided citation data, she did not provide comparative evidence, for example, showing citation rates for other articles in her field to demonstrate that her citations exceed the norm and indicate the significance of her contributions. As a result, the Petitioner has not demonstrated she satisfies this criterion.

c. Performance in a Leading or Critical Role

The criterion at 8 C.F.R. § 204.5(h)(3)(viii) first requires a petitioner demonstrate that she has performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. A supporting role may be considered critical if the petitioner's performance in the role is (or was) important. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). To establish her critical role, a petitioner must establish that she contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *Id.* The criterion then requires a petitioner to establish that the organization or establishment, or the department or division for which the person holds or held a leading or critical role, has a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

In support of this criterion, the Petitioner submitted recommendation letters and claimed she played a leading role at [redacted] as an electrical engineer and scientist in physics and critical roles for her different employers. SCOPS explained, in part, that the Petitioner did not provide organizational charts for any of the organizations she worked for to demonstrate her position was leading and that her recommendation letters did not support that she played a leading or critical role. On appeal, the Petitioner claims she played a leading and critical role for the training and development department at [redacted] as a coordinator where she oversaw recruitment, evaluation, program coordination, and performance monitoring and where her innovative business strategies propelled the company to national and international recognition. She asserts that her duties demonstrate she was at the top of the hierarchy. She also claims that she worked for high level teams at the [redacted] but does not identify the teams, divisions or departments nor her roles within them that she believes are leading or critical. In support of her assertions, she refers to her recommendation letters. Letters from persons with personal knowledge of the significance of the petitioner's leading or critical role can be particularly helpful as long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical. *Id.* Here, the letters do not support her assertions. While some discuss her research and talents, they do not speak to, for example, her claimed innovative business strategies, nor do they detail probative information demonstrating the Petitioner's contributions were of significant importance to any organization's activities to demonstrate she played a leading or critical role. The letters she specifically references in support, such as the letter authored

by [redacted] dated August 2024, describes her as his subordinate, explains she has worked in one of the laboratories at the [redacted] identify her published work, states she has demonstrated excellence in fulfilling her responsibilities, and summarily states her work has had substantial and positive impact on advancing knowledge in the field.

The Petitioner also argues that she was awarded for her exceptional performance at [redacted] but does not explain how this demonstrates she played a leading or critical role for the University.

SCOPS also determined that the Petitioner did not establish the distinguished reputation of any of the organizations. On appeal, the Petitioner merely restates that they were distinguished and refers to her recommendation letters, which she claims speak to the excellence and eminence of the organizations. However, the letters are uncorroborated and do not discuss in sufficient detail or document factors that may demonstrate an organization's distinguished reputation, such as, the scale of their customer base and media coverage, and for academic institutions, their national rankings and receipt of government research grants. Accordingly, the Petitioner has not demonstrated she meets this criterion.

B. Summary of Evidentiary Criteria

The Petitioner has not established that she has received a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3), or that she satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible). Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a conclusion 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 for individuals progressing toward the top. *See* 8 C.F.R. § 204.5(h)(2) (explaining "extraordinary ability" refers only to those in "that small percentage who have risen to the very top of the field of endeavor"). USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the record as a whole does not demonstrate a level of recognition that indicates the required sustained national or international acclaim or demonstrates 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 that the Petitioner is one of the small percentage who has risen to the very top of the field of endeavor.

III. CONCLUSION

The Petitioner has not demonstrated 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 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.