U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39351731

Date: AUG. 26, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a general manager at [redacted], 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 requirements for this classification through evidence of either a one-time achievement or because he meets three of the alternative evidentiary criteria under 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to an immigrant 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 international recognition of his or her 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 he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria 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. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner intends to continue his work in the private fund management industry by establishing a firm in New York. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS determined that the Petitioner met the criteria at 8 C.F.R. §§ 204.5(h)(3)(i) and (viii), which respectively, relate to the receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor and performance in a leading or critical role for organizations or establishments that have a distinguished reputation. The Petitioner claimed before SCOPS that he met four of the regulatory criteria and, as stated, SCOPS determined he satisfied only two of the claimed criteria. On appeal, the Petitioner continues to maintain he meets the four evidentiary criteria claimed previously. After reviewing all the evidence of record, we conclude he has not satisfied at least three of the regulatory criteria as required and therefore does not qualify as an alien of extraordinary ability.

A. Evidentiary Criteria

> *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).

SCOPS indicated the Petitioner submitted five articles that did not include all the information required by the regulations, including the title, date, and author of the material. *Id.* In citing to *Lamilem Badasa v. Michael Mukasey*, 540 F.3d 909. 901-11 (8th Cir. 2008), SCOPS noted that evidence such as this from web portals, domains, and social media are from open, user-edited platforms, so there are no assurances about the reliability of its content. Overall, SCOPS also determined the submitted articles

were not substantially about the Petitioner's work in the field and that the record further lacked evidence that the publications constituted major trade publications or other major media.

On appeal, the Petitioner asserts that several of the articles referenced by SCOPS were submitted not to satisfy this criterion but to demonstrate his expertise and the weight of his opinions in this industry. However, the Petitioner contends he has submitted three articles that meet the elements of this criterion, which include articles from [redacted] the [redacted] website [redacted], and [redacted]. These articles, collectively, consist of interviews with the Petitioner about his opinions regarding [redacted], including originating factors and expectations for the future. The Petitioner contends these interviews are sufficient to meet this criterion under the USCIS Policy Manual, as they are focused on the Petitioner as an expert in field. Further, the Petitioner indicates he is referred to as a leading figure in the industry in the [redacted] article and an industry veteran in [redacted] article. However, consistent with the language of 8 C.F.R. § 204.5(h)(3)(iii), the USCIS Policy Manual clarifies to meet this criterion, published material "should be about the person" with "the person and the person's work" being a subject of the material. 6 *USCIS Policy Manual* F.2(B), https://www.uscis.gov/policymanual. While we acknowledge the Petitioner was interviewed based upon his pertinent knowledge and experience, the underlying subject of these interviews and articles is the bond market, rather than the Petitioner and his work in the field. As such, the Petitioner has not established he was the subject of news coverage relating to himself and his work, rather than an individual providing information and advice based upon his expertise. We note the [redacted] identifies him as a partner at [redacted] the [redacted] refers to the Petitioner as one of 30 interviewed experts and representatives from the private bond sector, and [redacted] introduces him as the general manager of [redacted] However, these published characterizations of the Petitioner do not constitute a "substantial discussion" of the Petitioner and his work in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B). As the Petitioner has not demonstrated his submitted published material was related to him and his work in the field, we need not consider whether these publications also constitute professional or major trade publications or other major media. We concur with SCOPS that the Petitioner does not meet this criterion.

> *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).

SCOPS indicated the Petitioner submitted 2023 foreign personal income tax information and 2023 comparative wage data containing annual earnings for general managers in a variety of locations. However, SCOPS noted the record contains evidence indicating different job titles and roles for the Petitioner (in China). Overall, SCOPS determined the record did not establish the Petitioner received a high salary or other significantly high remuneration for services in relations to others in the field.

On appeal, the Petitioner asserts his income certificate indicates he earned 2.72 million in RMB from [redacted] for his work as a general manager of the company, a position he has held since 2018. The Petitioner contends his position as a general manager is supported and verified by his initial petition, certificate of employment, business card, and media reports. However, the Petitioner's certificate of employment more fully identifies him as a partner member, general manager, and major shareholder for [redacted] holding a 20 percent stake. Similarly, a letter from the founder and president of [redacted] and additional letters of recommendation in the record characterize the

Petitioner as a partner and general manager. In addition to overall management responsibilities, the Petitioner acknowledged he also personally managed private fund products and was "the key person in charge of the Investment Decision Committee," one of three committees organizationally below the general manager's office within the [redacted] And the Petitioner received multiple industry awards for additional roles, including best private investment manager, best private fund investment manager, and best fixed income strategy fund manager. Several of these investment and fund manager awards were received by the Petitioner in 2023, the same year for which he submits income information for his work as a general manager. Further, in submitted articles, the Petitioner was identified as a partner by [redacted] and as a CEO by [redacted].

While the Petitioner acknowledges evidence of record identifies him in the roles of CEO, partner, major shareholder, and fund manager of [redacted], his counsel alternatively contends these roles are not "positions with specific responsibilities or authority," a "functional designation related to his responsibilities," and "not his official job title within the company." Insofar as the Petitioner was identified as a CEO, counsel asserts this was a "translation choice" by the article's author, as the general manager position in [redacted] is "similar to the role of a CEO in other companies." We consider the totality of these factors in determining whether the Petitioner meets this criterion. *See Racine v. INS*, No. 94 C 2548, 1995 WL 153319, at * 7 (N.D. Ill. Feb. 27, 1995) (the regulations allow comparison of a salary with others similarly situated). We also note that the assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (*citing Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Here, the Petitioner asserts his 2023 income was earned based on his work as a general manager for [redacted] The Petitioner submitted a 2023 remuneration report that includes a survey of the remuneration of general managers in the private fund industry in China and a positions remunerations report for general managers in the private fund industry in [redacted] from the same year. The Petitioner claims that as his own remuneration in the same year "was about 1.57 times the highest figure" per the China survey remuneration report and in the top 10 percent of general managers per the [redacted] positions remuneration report, it was significantly high in relation to others in the field. However, the Petitioner's additional roles within [redacted] as evidenced by submitted letters of support, published articles, and received awards, indicate that the compensation he received reflected his work in positions that were not limited to his general manager position. Overall, given the disparity in how the Petitioner's role at [redacted] has been characterized, he has not demonstrated his earnings can effectively be compared to those in a singular general manager position. As such, we concur with SCOPS that he has not met this criterion.

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that they are 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*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 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. at 25 (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an alien 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.