U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38498252

Date: AUG. 26, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an actress, model, and entertainer from Venezuela, seeks classification as an individual of extraordinary ability in performing arts. *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.

SCOPS denied the petition, concluding that the record did not establish, as required, that the Petitioner met three of the initial ten evidentiary criteria for this classification listed at 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 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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 documentation that meets at least three of the ten 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). 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.

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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The Petitioner is an actress, model, and entertainer in Venezuela. She indicates that she intends to continue working in these capacities in the United States.

A. Evidentiary Requirements

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claims to have met all ten of these criteria.

SCOPS determined that the Petitioner satisfied one of the ten claimed initial evidentiary requirements relating to participating as a judge of others' work at 8 C.F.R. § 204.5(h)(3)(iv). We agree. However, SCOPS concluded that the Petitioner did not show that she met the remaining nine claimed criteria. SCOPS therefore found that the Petitioner did not satisfy at least three of the ten evidentiary criteria for extraordinary ability and denied the underlying petition.

On appeal, the Petitioner does not contest SCOPS' adverse findings regarding five of the criteria, specifically original contributions of major significance, scholarly articles, display, high salary, and commercial success at 8 C.F.R. 204.5(h)(3)(v), (vi), (vii), (ix), and (x). Accordingly, we deem these issues to be waived. *See, e.g.*, *Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (waiving an argument that was mentioned, but not developed); *Iliev v. Holder*, 613 F.3d 1019, 1026 n.4 (10th Cir.

2010) (finding a "suggestion" made "in passing" in a brief is insufficiently developed and is therefore waived); *Martinez-Serrano v. INS*, 94 F.3d 1256, 1259 (9th Cir. 1996) (waiving an issue that was referred to in the appellant's statement of the case but not discussed in the body of the brief).

However, the Petitioner does argue that she meets the remaining four claimed criteria relating to lesser nationally or internationally recognized awards, membership in an association in the field which requires outstanding achievements of their members, published materials, and performing a leading or critical role at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), and (viii), respectively. For the following reasons, we disagree.

1. "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).

In order to evaluate whether the documentation satisfies this criterion, we first determine whether the Petitioner is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner bases her eligibility for this criterion, in part, on her 2018 nomination for the [redacted] award for [redacted]. Here, the Petitioner does not show that her nomination for this award equates to having received the award. *Sarin v. USCIS*, No. 2:22-CV-07498-SVW-JS, 2023 WL 5667531, at *10 (C.D. Cal. Jul. 27, 2023) (upholding that being nominated for an award was not the same as actually receiving an award).

The Petitioner also asserts that her 2023 "Special Mention" [redacted] Award for [redacted] satisfies this criterion. However, the Petitioner has not offered evidence sufficient to demonstrate that receiving a "special mention" equates to the receipt of a lesser nationally or internationally recognized award. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *6 (S.D.N.Y. Jan. 5, 2024) (finding an honorable mention was not tantamount to an award for excellence).

The Petitioner also claims to meet this criterion based upon her receipt of the following awards: 2022-2023 [redacted] award for the 2022-2023 [redacted] of the Year and 2019-2020 [redacted] Award for Female Revelation Influencer, her 2020 [redacted] Award for '[redacted]', and a 2016 certificate from Shows Productions recognizing the Petitioner for her "excellent presentation as a guest artist". The record contains documentation, such as photographs of the awards with the Petitioner's name and certified English language translations of the inscriptions on the awards, sufficient to show that the Petitioner received them.

To establish that these awards are nationally or internationally recognized for excellence in the field, the Petitioner submitted website printouts from the [redacted] and the [redacted] Awards describing these entities and the award criteria. The Petitioner also provided a letter from the president of the [redacted] describing the judging panel for these awards. However, this evidence is not sufficient to establish that the awards themselves are nationally or internationally recognized for excellence in the field. *See Krasniqi*, 558 F. Supp. 3d at 183 (providing that USCIS must focus on the recognition of the award, not its issuer and upholding

that a letter only describing the award criteria was insufficient to show that the award had national or international recognition). Further, the Petitioner did not offer sufficient evidence to show how these awards are viewed by a larger audience. *See id.* at 182 (finding the regulation requires that the petitioner provide evidence of national or international recognition); *see also Visinscaia*, 4 F. Supp. 3d at 136 (finding that without evidence reflecting how a larger audience viewed the plaintiff's awards, there was no way to evaluate whether those awards were recognized widely enough to satisfy the awards criterion); *Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *8-9 (N.D. Cal. Feb. 16, 2021); *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885, at *8 (E.D.N.Y. Sept. 30, 2011).

The Petitioner further asserts her eligibility based upon the 2016 award, the 2016 award, and the 2014 Award for of the Year given to , a program that she hosted. The Petitioner submitted sufficient evidence to establish her receipt of these awards, including photocopies of these awards and certificates, accompanied by certified English language translations, naming her as a recipient of these awards as the host of the program. However, the Petitioner has not shown that these awards are nationally or internationally recognized for excellence in the field.

With respect to the 2016 award, the Petitioner provided a letter from the president of the company that founded these awards, describing the awards, the jury selection process, and the awards criteria. This letter is insufficient to establish this award's national or international recognition for excellence in the field. *See Krasniqi*, 558 F. Supp. 3d at 183 (providing that USCIS must focus on the recognition of the award, not its issuer, and upholding that a letter only describing the award criteria was insufficient to show that the award had national or international recognition). The Petitioner also provided a screenshot from the "About Us" section of the website describing the company, its employees, and indicating its responsibility for the creation of the awards event. However, she does not explain how this screenshot establishes that the award is nationally or internationally recognized for excellence in the field.

As it relates to the 2016 award, the record also included the letter informing the Petitioner that she had been selected to receive the award and a partially translated article identified as "media" from titled "In photos: This is how the showbiz looked at the 2016 Awards". The letter provides a general description of the award, while the article includes photographs of persons attending the 2016 . However, this letter does not address whether or does not otherwise demonstrate that this award is nationally or internationally recognized. *Id.* (upholding that a letter only describing the award was insufficient to show that the award had national or international recognition). Further, the Petitioner has not shown how a single article about an award establishes its national or international recognition. *See generally Negro-Plumpe v. Okin*, No. 2:07-CV-820-ECR-RJJ, 2008 WL 10697512, *2 (D. Nev. Sept. 9, 2008) (upholding awards mentioned in a major German newspaper insufficient to establish the national or international recognition).

Regarding the 2014 award, the Petitioner initially provided an online Wikipedia article on the granting organization to establish the award's national or international recognition. However, as there are no assurances about the reliability of the content from this open, user-edited internet site, we afford it little weight. *See Matter of L-A-C-*, 26 I&N Dec. 516, 526-27 (BIA 2015)

(noting that "Wikipedia articles lack indicia of reliability and warrant very little probative weight in immigration proceedings"); *see also Badasa v. Mukasey*, 540 F.3d 909, 910 (8th Cir. 2008). With her response to SCOPS' request for evidence, the Petitioner provided a 2020 news article discussing the changes to the format of the [redacted] awards as well as an article indicating her receipt of the award on behalf of and as host of [redacted] However, she has not shown that two articles mentioning the award establish its national or international recognition. *See Negro-Plumpe*, WL 10697512 at *2 (upholding awards mentioned in a major German newspaper insufficient to establish the national or international recognition).

Finally, the Petitioner claims to meet this criterion based upon a certificate recognizing her participation as a judge for the [redacted] and her certificates of recognition from [redacted] and from [redacted] in the record. The record includes evidence, such as certificates identifying the Petitioner as the recipient of each of these awards, accompanied by certified English language translations, sufficient to establish that the Petitioner received these awards. The certified English language translations of the certificates in the record confirm the Petitioner's participation as a judge for the Arcoiris awards, her participation and completion of the [redacted] acting training course, and her "participation as the image of our professional makeup course" for [redacted] Here, the Petitioner has not provided sufficient evidence to show that these awards are recognized for excellence beyond the awarding institutions in a manner indicative of national or international recognition. Further, she has not shown that these certificates are awards recognized for excellence in the field. *See e.g., Jafarov*, 2024 WL 69056 at *6 (finding an award must be recognized for excellence rather than one recognizing mere participation); *Krasniqi*, 558 F. Supp. 3d at 183 (finding a certificate awarded for participation or contribution was not for excellence in the field).

For the above-stated reasons, the Petitioner has not satisfied this criterion.

2. "Documentation of the alien's membership in associations in the field for which classification is sought that require outstanding achievement of their members, as judged by recognized national or international experts in their disciplines or fields." 8 C.F.R. § 204.5(h)(3)(ii)

This criterion contains several evidentiary elements the Petitioner must satisfy. First, the Petitioner must demonstrate that she is a member of an association in her field. Second, the Petitioner must demonstrate both of the following: (1) the associations use nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding, and (2) the associations use this outstanding determination as a condition of eligibility for prospective membership.

The Petitioner claims to meet this criterion based upon her memberships in the [redacted] and the [redacted] and her "active and significant participation in" the [redacted] The Petitioner provided letters from individuals at each of these organizations to establish that she satisfies this criterion.

SCOPS found this evidence insufficient to show that the Petitioner satisfied this criterion.

On appeal, the Petitioner contends that SCOPS reached this conclusion erroneously in part because it disregarded the letter from the [redacted]. She explains that, while the [redacted] "does not issue membership cards," the letter from the [redacted] in the record below "explicitly states the Petitioner's active membership and participation in the association." The record includes a letter from L-M- of the [redacted] explaining that the entity is "a body under the [redacted], now the [redacted]" of Venezuela. L-M- continues, stating that the [redacted] is:

> a cultural institution dedicated to public service, national and international reference, committed to human development and sustainable integrated the artist, creators, creative, cultivators, which guarantees the fulfillment of their social rights, participation protagonist and the full recognition of their creative abilities.

L-M- further explains that the Petitioner is "one of [their] artists," and that she has collaborated with others "to develop plays" and to "support the community well and appeal to the participation and assistance for new talent." While we acknowledge the Petitioner's argument on appeal that the [redacted] does not issue membership cards and that SCOPS failed to consider the letter in the record before it, upon review this correspondence is insufficient to establish that she satisfies this criterion. Regardless of membership, this letter does not indicate, and the Petitioner does not explain how this evidence shows that the [redacted] requires outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

Regarding the Petitioner's claimed membership in [redacted] the record includes a letter from F-C-, president of the [redacted] Awards and a document providing background information about [redacted]. The background document describes [redacted] a "unique literary organization founded ... by a group of [redacted] based Hispanic journalists and correspondents" that "strengthen[s] the unity of Latin American journalists specialized in the performing arts." In his letter, A-C- does not address whether the Petitioner is a member of [redacted] Rather A-C- provides an "advisory opinion that the evidence presented on the draft, the I140 PETITION and the supporting documentation clearly establishes that [the Petitioner] is a recognized entertainer in Venezuela and Latin America." As noted above, the Petitioner must first establish that she is a member of an association. Contrary to the Petitioner's assertion on appeal, the letter from F-C- does not indicate whether she is a member of [redacted]. Moreover, the Petitioner's evidence does not address the requirements for membership or otherwise establish that [redacted] requires outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

The Petitioner also emphasizes her participation and membership in the [redacted] on appeal. The record includes a letter from E-R-, a member of the foundation who is also the executive producer of a fund-raising event for the organization. E-R- explains that this foundation's mission is "to support low-income children affected by infantile paralysis, helping them overcome the disease, treatment, and the associated emotional stress." She highlights the Petitioner's participation in the foundation's annual fundraising event to "finance high-cost medical treatments for children" through her "prominent presence at the event." However, E-R- does not indicate whether the Petitioner was a member of the foundation itself, and the certificate of recognition in the record from the foundation identifies the Petitioner as a volunteer. Here the Petitioner does not provide additional evidence to establish her claimed membership. Moreover, the

Petitioner did not show that the foundation is an association in the field of performing arts, the field for which she seeks classification, and that it requires outstanding achievements of its members, as judged by recognized national or international experts in their disciplines or fields.

For the above-stated reasons, the Petitioner has not shown that she satisfies the criterion for membership in an association in the field requiring outstanding achievements of its members at 8 C.F.R. § 204.5(h)(3)(ii).

> 3. "Published material about the alien in professional or major trade publications or other major media relating to the person's work in the field for which classification is sought. Such evidence must include the title, date, and author of the material, and any necessary translation." 8 C.F.R. § 204.5(h)(3)(iii)

To determine if the Petitioner has satisfied this criterion, we first examine whether the published material was related to the person and the person's specific work in the field for which the classification is sought. The record shows that the Petitioner submitted several articles to demonstrate that she satisfies this criterion. While we discuss only a sampling of these articles in the following analysis, we have considered each one.

One subset of this evidence is comprised of articles containing only photographs of the Petitioner. For instance, the article referenced by the Petitioner on appeal, '[redacted]', is a series of modelling photographs of the Petitioner that appeared in the magazine [redacted] Another article, titled "Picture of the day" is a photograph of the Petitioner appearing on the website. Photographs of the Petitioner appearing in publications are insufficient to satisfy this criterion. *See generally Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *4 (D. Neb. Mar. 10, 2025) (upholding modelling photographs with captions identifying an alien were insufficient); *Kinuthia v. Rosenberg*, No. CV 17-10255-LTS, 2018 WL 1243955, at *5 (D. Mass. Mar. 8, 2018), *aff'd sub nom., Kinuthia v. Velarde*, No. 18-1244, 2019 WL 11671989 (1st Cir. July 3, 2019), *cert. denied*, 140 S. Ct. 2643, 206 L. Ed. 2d 714 (2020) (finding it is not enough that the petitioner is pictured or mentioned in the publication).

Another group of articles are about an event or show and only briefly mention the Petitioner. For example, the articles '[redacted]', published in [redacted] and '[redacted]', published in [redacted] are about the song [redacted] and focus on the song's story and songwriters. The Petitioner is only briefly mentioned for being in the song's music video. Other articles discuss events that the Petitioner participated in or at which she received an award. For instance, "[the Petitioner] is the President of the Jury for [redacted] 2015", published on the website of [redacted] briefly mentions the Petitioner as host, but continues on to describe the competition and the venue where the competition will take place. Another article posted on [redacted]', focuses on the results of the modeling competition, and only offers a brief discussion of the role the Petitioner played as president of the jury. Other articles are about the show [redacted] For example, the article, '[redacted]' focuses on the show itself while another, '[redacted]' is an interview of all three hosts of the program and contains one quote of each of the three. Articles about a show or event that only briefly mention the Petitioner are not about her. *Cf. Negro-Plumpe*, 2008 WL 10697512, at *3 (finding that articles focusing on the character or the show, rather

than the performer himself, are not "about the alien"); *cf. Victorov v. Barr*, No. CV 19-6948-GW-JPRX, 2020 WL 3213788, at *6 (C.D. Cal. Apr. 9, 2020) (quoting *Noroozi v. Napolitano*, 905 F. Supp 2d 535, 545 (S.D.N.Y. 2012); *see also Mussarova v. Garland*, 562 F. Supp. 3d 837, 848 (C.D. Cal. 2022) (finding an article which reported on a sporting event and mentioned the alien only in identifying players who scored a goal was not about her).

We note that the Petitioner also offered another article in which she is interviewed about her plans for Christmas. However, this article, too, does not discuss the Petitioner's work in the field.

Other articles in the record, include one titled "[The Petitioner] revealed how she started her life on social networks and how she achieved success" and another titled '[redacted] [the Petitioner]", both of which were published by [redacted] on its Facebook page; and the article '[redacted]' published in [redacted] However, the criterion at issue here requires that evidence includes the author of the published material, which these three articles do not include. The Petitioner claims that the [redacted] articles were authored by "editorial staff," and that the [redacted] article was authored by that publication. The articles themselves, however, do not include any such credits and do not identify the members of the "editorial staff" or of [redacted] The Petitioner identified no source for the claims about the articles' authorship.

Another article, "[The Petitioner][redacted]", was published on [redacted] but the Petitioner has not shown that [redacted] is a major trade publication, or major media. When evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media). *See* 6 *USCIS Policy Manual*, *supra,* at F.2(B)(1).[1] The record included screenshots from SimilarWeb regarding website traffic for [redacted] listing "Total Visits" to that site in November 2024 at "16,901," a "Global rank" of "1,857,960," a "Country rank" of "244,095," and an "Industry rank" of "52,193." The Petitioner, however, did not establish the significance of these statistics or otherwise demonstrate how they show that the aforementioned publication qualifies as a major trade publication or other major media. *See Branski v. Seng*, No. 24-CV-360, 2024 WL 4678939, at *5 (E.D. Wis. Nov. 4, 2024) (indicating that the failure to provide context to circulation figures makes it difficult to assess their significance).

The Petitioner has, therefore, not demonstrated that she meets this criterion.

For the above-stated reasons, of the five claimed criteria, the Petitioner has not shown that she satisfies the criteria related to lesser nationally or internationally recognized awards, membership in an association in the field which requires outstanding achievements of their members, and published

[1] We note the Petitioner's argument on appeal that "social media sites, websites and other internet-based publications" equate to professional or major trade publications or other major media in part because "internet-based publications are now the primary means of publishing" this type of material. However, the Petitioner does not offer independent objective evidence to support this claim. Moreover, the publication of materials on the internet does not establish its readership or viewership. *See Krasniqi*, 558 F. Supp. 3d at 185 (finding the "presence of something on the internet, a medium accessible to nearly anyone with a computer or smart device, does not establish that it is actually read or respected").

materials at 8 C.F.R. 204.5(h)(3))(i), (ii), and (iii). Accordingly, we conclude that the Petitioner has not met three of the initial evidentiary criterion, as required.

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 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*, --- 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 arguments concerning the remaining claimed criterion, as well as a 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). For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above-stated reasons, with each considered as an independent and alternate basis for the decision.

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.