U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 39271266

Date: AUG. 28, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a director of product compliance, 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 Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

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 a multi-part analysis. First, a petitioner can demonstrate 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). 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).

## II. ANALYSIS

The Petitioner indicates that he is the director of product certification and compliance for [redacted] Corporation [redacted] of [redacted] of the American school bus market. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award at 8 C.F.R. § 204.5(h)(3), he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, SCOPS determined that the Petitioner satisfied only one criterion, commanding a high salary at 8 C.F.R. § 204.5(h)(3)(ix). On appeal, the Petitioner maintains eligibility for five additional criteria. After reviewing all of the evidence, the record does not reflect that the Petitioner meets the requirements of at least three criteria.

*Documentation 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.* 8 C.F.R. § 204.5(h)(3)(ii).

In order to satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.[1] Associations may have multiple levels of membership, and the level of membership afforded to the alien must show that in order to obtain that level of membership, the alien was judged by recognized national or international experts as having attained outstanding achievements in the field for which classification is sought.[2] The Petitioner argues that his professional membership with the [redacted] fulfills this criterion and stresses that he is on the Board of Directors as a representative of [redacted]

[1] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 6 (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual's distinguished achievements in original research).
[2] *Id* at 7.

The record contains documentation on [redacted] letterhead stating that [redacted] is a not-for-profit trade association representing the world's leading manufacturers of internal combustion engines, zero emission powertrains, and medium- and heavy-duty commercial vehicles. [redacted] works with governments and other stakeholders to help the nation achieve its goals of cleaner air and lower greenhouse gas emissions, safer highways, and to ensure that regulatory standards are technologically feasible, cost effective, and successful. [redacted] lists twenty-nine [redacted] "member companies," including [redacted] Although the Petitioner is on the Board of Directors representing [redacted] he is not technically a member of the association, but rather [redacted] is a member of [redacted] While we acknowledge that [redacted] is a member company and that the Petitioner represents [redacted] on the Board of Trustees and on committees of [redacted] the Petitioner has not shown he is a member of [redacted] in his individual capacity, nor has he demonstrated that he has membership in an individual capacity that was based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.

Accordingly, the Petitioner did not demonstrate that he fulfills 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 him in professional or major trade publications or other major media, as well as the title, date, and author of the material.[3] The published material should be about the person, relating to the person's work in the field, not just about the person's employer or another organization that the person is associated with. *See Noroozi v. Napolitano*, 905 F.Supp.2d 535 (2012) (articles about the Iranian Table Tennis Team which only briefly mentioned the person were not about him.); *see also Negro-Plumpe v. Okin*, 2008 WL 10697512 (D. Nevada 2008) (articles focusing on a character played by the person or the show he performed in were not about the person). In addition, published material that includes only a brief citation or passing reference to the person's work is not "about" the person. An article that is not about the Petitioner does not meet this regulatory criterion. *See Victorov v. Barr*, No. CV 19-6948-GW-JPRX, 2020 WL 3213788, at *8 (CD. Cal. Apr. 9, 2020) (quoting *Noroozi v. Napolitano*, 905 F. Supp. 2d at 545; *see also generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual. However, the person and the person's work need not be the only subject of the material; published material that covers a broader topic but includes a substantial discussion of the person's work in the field and mentions the person in connection to the work may be considered material "about" the person relating to the person's work.

The Petitioner claimed eligibility for this criterion based on an article, [redacted] in the publication, [redacted] Although the Petitioner was interviewed for the article regarding new proposed school bus seating standards, the article was about the proposed standards, not about the Petitioner or his accomplishments in the field.

Accordingly, the Petitioner did not demonstrate that he fulfills this criterion.

[3] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

*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).

In order to meet the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field.[4] 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.

The Petitioner argues that his work at [redacted] in connection with monitoring selective catalytic reduction (SCR) degradation was a contribution of major significance in the field. However, the record does not reflect that the SCR approach he took has been implemented by any company other than his then-employer, [redacted] thus he has not shown his contribution was of major significance in the field.

The Petitioner also claims that overseeing the implementation of 3-point seatbelts in U.S. school buses for [redacted] was a contribution of major significance in his field. The Petitioner does not claim to have invented seatbelts. Eight states - Arkansas, California, Florida, Louisiana, Nevada, New Jersey, New York and Texas - have laws requiring the installation of seat belts on school buses. The Petitioner has not demonstrated that, as a director of compliance for a school bus manufacturing company, overseeing the implementation of safety equipment in school buses that comply with local laws, specifically 3-point seatbelts, is an original contribution of major significance in the field.
For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he 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 his "authorship of scholarly articles in the field, in professional or major trade publications or other major media."[5] As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. In general, it should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article.[6] For other fields, a scholarly article should be written for learned persons in the field. Learned persons include all persons having profound knowledge of a field.[7]

The Petitioner claims eligibility for this criterion based on his authorship of the article, "[redacted]" published in [redacted] This 2-page article does not have footnotes, endnotes, or a bibliography. Moreover, the article is clearly labeled as an advertisement from [redacted] in the [redacted] news. At the bottom of the advertisement

[4] *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).
[5] *See* USCIS Policy Memorandum PM-602-0005.1, *supra*, at 9.
[6] *Id.*
[7] *Id.*

is a QR code that takes the reader to "the full blog" on [redacted] website. The article concludes by stating that [redacted] is committed to supporting the reader's business and ensuring the reader has access to services they need regardless of "evolving landscape." The Petitioner did not demonstrate that he authored the article for learned persons in the field.

Accordingly, the Petitioner did not establish that he meets this criterion.

## III. CONCLUSION

The Petitioner did not demonstrate that he satisfies the criteria relating to memberships, published material, original contributions, and scholarly articles. Although the Petitioner claims eligibility for an additional criterion on appeal, relating to leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii), we need not reach this additional ground. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve this issue.[8] Accordingly, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. 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. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Price*, 20 I&N Dec. at 954. Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that 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 that the Petitioner has garnered national or international acclaim in the field, and he 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). Although the Petitioner has experience as a director of compliance, the record does not contain sufficient evidence establishing that he is among the upper echelon in his field.

For the reasons discussed above, the Petitioner has not demonstrated his 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 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

[8] *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); *see also Matter of L-A-C-*, 26 I&N Dec. 516, n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits