U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40479469

Date: DEC. 10, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an athlete, sports competitor, and entrepreneur in the field of rally racing, 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 (EB-1) classification makes immigrant visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their fields through extensive documentation.

Service Center Operations (SCOPS) denied the petition, concluding the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner contends that SCOPS did not fully consider all of the evidence submitted and did not properly weigh the evidence under the preponderance of the evidence standard. He maintains that the evidence supports his eligibility for the EB-1 classification.

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 aliens 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). *See also Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) ("EB-1 petitions, nicknamed Einstein visas, are coveted visas reserved for only the most talented noncitizens with extraordinary ability in the sciences, arts, education, business, or athletics"). 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 recognition of the beneficiary's 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 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). Additionally, if the criteria at 8 C.F.R. § 204.5(h)(3) do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility. 8 C.F.R. § 204.5(h)(4).

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 beneficiary 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

A. Evidentiary Criteria

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 decided that the Petitioner satisfied two criteria relating to a leading or critical role and a high salary but did not satisfy the remaining claimed criteria relating to lesser recognized awards, membership, published material, original contributions, and judging. After reviewing all the evidence in the record, we conclude that the Petitioner has not demonstrated eligibility for this highly restrictive immigrant classification. While we may not address each piece of evidence individually, we have reviewed and considered each one.

The Petitioner argues that SCOPS did not fully consider all of the evidence submitted and did not properly weigh the evidence under the preponderance of the evidence standard. Under the preponderance standard, we consider not only the quantity, but also the quality of the evidence, including its relevance, probative value, and credibility. *Matter of Chawathe*, 25 I&N Dec. at 376; *see also Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989). When SCOPS provides a reasoned consideration to the petition and has made adequate findings, it will not be required to specifically address each claim the petitioner makes, nor is it necessary for it to address every piece of evidence the petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir. 1992); *see also Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351

(11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993). Here, the record reflects that SCOPS has acknowledged and analyzed various documents on record by a preponderance of the evidence but concluded overall that the quality of the evidence lacked probative value in supporting the Petitioner's eligibility for the EB-1 classification, and we agree.

1. "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 the association for which he claims present or past membership requires that members have outstanding achievements in the field, as judged by recognized experts in that field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Associations may have multiple levels of membership, and the level of membership afforded to the person must show that in order to obtain that level of membership, recognized national or international experts judged the person as having attained outstanding achievements in the field for which classification is sought. *Id.* Relevant factors that may lead to a conclusion that the person's membership in the associations was not based on outstanding achievements in the field include instances where the person's membership was based on a level of education or years of experience in a particular field, the payment of a fee or by subscribing to an association's publication, or a requirement for employment in certain occupation, as commonly seen with union membership or guild affiliation for actors. *Id.*

The Petitioner claims eligibility for this criterion based on his membership in the Brazilian Motorcycling Confederation (CBM), the International Motorcycling Federation (FIM), and the Brazilian Olympic Committee (COB). First, while the Petitioner provided a copy of his 2025 pilot license issued by the CBM claiming that he is a member of the CBM, he did not demonstrate that he was or is a member of the FIM or COB. *See* 8 C.F.R. § 204.5(h)(3)(ii). The Petitioner provided information regarding the CBM indicating that the CBM, the official governing body for motorcycle sports in Brazil, is affiliated with the FIM and COB. But the CBM's affiliation with the other two organizations does not establish that the Petitioner is also a member of the other affiliated organizations.

Second, the Petitioner has not shown that his membership in the CBM requires outstanding achievements of their members, as judged by recognized national or international experts in their fields. *See id.* According to the excerpts from the CBM Sports Code and Licensing Manual, in order to obtain a CBM competition license, applicants must "be affiliated with a state-level federation and [ ] officially registered [with] a motorcycle sport club, submit documented evidence of competitive experience at the regional, national, or internal level, pass a medical examination and technical evaluation confirming fitness for high-speed competition, and complete a training course or seminar, if required, on safety protocols and competitive regulations." Affiliation or registration with an organization, competitive experience, passing a medical examination and technical evaluation for physical fitness, and completion of a training course or seminar are not "outstanding achievements." *See id.* Moreover, they are not judged by recognized national or international experts in their fields. *See id.*

Even if the Petitioner were to submit supporting documentary evidence showing that his membership in the CBM meets the elements of this criterion, which he has not, section 203(b)(1)(A)(i) of the Act requires the submission of extensive evidence. Consistent with that statutory requirement, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires membership in more than one association. Significantly, not all of the criteria at 8 C.F.R. § 204.5(h)(3) are worded in the plural. Specifically, the regulations at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix) only require service on a single judging panel or a single high salary. When a regulatory criterion wishes to include the singular within the plural, it expressly does so as when it states at 8 C.F.R. § 204.5(k)(3)(ii)(B) that evidence of experience must be in the form of "letter(s)." Thus, the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld U.S. Citizenship and Immigration Services (USCIS)' ability to interpret significance from whether the singular or plural is used in a regulation. *Cf. Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at *1, *12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005, at *1, *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials).

As the Petitioner did not demonstrate that he is a member of associations in the field of rally racing, which require outstanding achievements of their members, as judged by recognized national or international experts in the field, he does not meet this criterion. *See* 8 C.F.R. § 204.5(h)(3)(ii).

2. "Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iv).

To meet this criterion, the Petitioner must demonstrate that he has acted as a judge of the work of others in the same or an allied field of specification. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Examples of judging the work of others may include peer review for a scholarly journal, serving as a member of a Ph.D dissertation committee, and peer review for government research funding programs. *Id.*

The Petitioner claims that his evaluative and mentorship activities at [redacted] satisfies this criterion. The Petitioner provided proof of enrollment and registration status of [redacted], which lists car rental, sports instructions, professional and management development training, and other sports activities as its business activities. The Petitioner also provided his photos teaching a class or demonstrating an exercise during a course and his photos with students holding course completion certificates at the school. A support letter from the team manager for [redacted] states that the Petitioner as their lead rider is "a mentor and leader, always willing to share his expertise and elevate those around him" and that "[a]s the owner and instructor at [redacted] since 2005, [the Petitioner] has trained over 300 aspiring off-road competitors, fostering the development of future rally champions." A support letter from a co-founder of [redacted], a financial institution, states that the Petitioner's "invaluable mentorship has guided [his] development as a driver and [the Petitioner] has instilled in [him] a deep understanding of both the technical and strategic aspects of racing."

Serving as a teacher, instructor, or mentor where part of one's job duties may include evaluating students, trainees, or mentees does not equate to participation as a judge of the work of others in the field. For example, providing instruction and training to athletes is not tantamount to deciding the outcome of a contest or competition. The phrase "a judge" implies a formal designation in a judging capacity, either on a panel or individually as specified pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iv). Informal instances of evaluating students, trainees, or mentees as a teacher, trainer, or mentor do not meet the elements of this criterion. There is no sufficient evidence on record demonstrating that the Petitioner actually served "as a judge of the work of others." *See* 8 C.F.R. § 204.5(h)(3)(iv). Accordingly, the Petitioner does not meet this criterion.

3. "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).

To satisfy this criterion, the Petitioner must demonstrate (1) that he has made original contributions in the field and (2) that the original contributions are of major significance to the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). We focus on whether the person's original work constitutes major, significant contributions to the field. *Id.* Detailed letters from experts in the field explaining the nature and significance of the person's contributions may provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance. *Id.* Submitted letters should specifically describe the person's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise. *Id.*

As evidence of eligibility under this criterion, the Petitioner provided support letters from various individuals. A letter from the chief executive officer of [redacted] in Latin America states the Petitioner's "in-depth knowledge of off-road and racing conditions allowed [redacted] to enhance performance, durability, and traction, ensuring that the competition line meets the highest standards for professional racing." A letter from the president of the [redacted] states the Petitioner is "a renowned athlete with 38 years of professional experience in cross-country rally racing" and has achieved "significant success in globally recognized competition[,] such as the [redacted], the [redacted], and the [redacted]." A letter from the director of [redacted] asserts the Petitioner is "a true ambassador of Brazilian motorsport and his contributions as a leader, innovator, and role model elevate every competition in which he takes part." A letter from the founder and director of the [redacted] expresses the Petitioner is "not only a legend in Brazilian motorsport but also an international ambassador for [Brazil's] sport." A letter from a journalist in outdoor sports asserts the Petitioner's "extraordinary achievements, resilience, and contributions to the sport make him a prime candidate for EB-1 status."

The opinions of the Petitioner's references are not without weight and have been duly considered. We may, in our discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we are ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of reference letters supporting the petition is not presumptive evidence of eligibility; we may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). Thus, the content of the

references' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence that one would expect of a rally driver who has made original contributions of major significance in the field. *Cf. Visinscaia v. Beers*, 4 F.Supp.3d 126, 134–35 (D.D.C. 2013) (concluding that our decision to give little weight to uncorroborated assertions from professionals in the field was not arbitrary and capricious).

First, the support letters discuss the Petitioner's competitive experience and professional achievements as a rally driver, contributions to the development of competition tires for [redacted], partnership with [redacted] serving as a team leader and technical mentor, and training and mentorship at [redacted] guiding the next generation of rally drivers. However, the letters do not adequately explain how his professional experience and achievements as a rally driver, partnership with [redacted], and teaching and mentoring activities at [redacted] constitute "original" contributions in the field or how he has made "original" contributions in the field. *See* 8 C.F.R. § 204.5(h)(3)(v).

Second, the letters do not sufficiently demonstrate that his contributions are "of major significance in the field." The phrase "major significance" is not superfluous and, thus, it has some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. 2003). For example, to be considered a contribution of major significance in the field of science, it can be expected that other experts would have reproduced or otherwise applied the petitioner's results. Otherwise, the impact of the petitioner's work is difficult to gauge. *Cf. Visinscaia v. Beers*, 4 F.Supp.3d 126, 134–35 (D.D.C. 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole). Here, while the record includes numerous attestations of the Petitioner's competitive experience and professional achievements as a rally driver, none of the letters provide examples of how the Petitioner's work is already influencing the field. While the letters provide the Petitioner's contributions to the development of competition tires for [redacted], to [redacted] as a team leader and technical mentor, and to [redacted] as an instructor and mentor, they do not provide specific examples of how those contributions rise to a level consistent with major significance in the field. *See Kazarian v. USCIS,* 580 F.3d 1030, 1036 (9th Cir. 2009) *aff'd in part* 596 F.3d 1115 (9th Cir. 2010). In 2010, the *Kazarian* court reaffirmed its holding that we did not abuse our discretion in finding that the alien had not demonstrated contributions of major significance. 596 F.3d at 1122.

Without sufficient evidence showing that the Petitioner has made original contributions in the field of rally racing and his work has been unusually influential, widely applied throughout the field of rally racing, or has otherwise risen to the level of contributions of major significance, the Petitioner has not established that he meets this criterion. *See* 8 C.F.R. § 204.5(h)(3)(v).

4. "Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii).

First, the Petitioner must demonstrate that he has performed in a leading or critical role for an organization or establishment. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). For a leading role, we look at whether the evidence establishes that the Petitioner was a leader within the organization or establishment. *Id.* For a critical role, we look at whether the evidence establishes that

the Petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. *Id.*

Second, the Petitioner must show that the organization or establishment for which he held a leading or critical role has a distinguished reputation. *Id.* The relevant size or longevity of an organization or establishment is not a determining factor but is considered together with other information to determine whether a distinguished reputation exists. *Id.* Other relevant factors for evaluating the reputation of an organization or establishment include the scale of its customer base or relevant media coverage. *Id. Merriam-Webster.com Dictionary* defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Distinguished*, Merriam-Webster.com, www.merriam-webster.com.

SCOPS determined that the Petitioner established eligibility for this criterion. A review of the record of proceeding, however, does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner asserted that he has played both leading and critical roles for [redacted] as a competitor, brand ambassador, and leader. The Petitioner also stated that he serves as the managing partner of [redacted], demonstrating his leadership in the motorsports. The record includes support letters from various individuals, information about [redacted] from the [redacted] website, an article about [redacted]'s expedition, proof of enrollment and registration status and an organization document of [redacted], proof of enrollment and registration status and articles of organization of [redacted], information about [redacted] and its driving courses and tours from the school website, and articles about [redacted] and the Petitioner's courses at the school.

A letter from a co-founder of [redacted], a financial institution, states as a partner of his professional rally team, the Petitioner was "instrumental in transforming his team into a well-structured, highly competitive organization." A letter from the chief executive officer of [redacted], an investment firm, asserts "[t]hrough his Off-Road School and advocacy for [redacted], [the Petitioner] has shaped the next generation of competitors while elevating motorsports in Brazil and beyond." A letter from the team manager for [redacted] affirms "[s]erving as a team leader and technical mentor, [the Petitioner] has played a critical role in shaping [[redacted]'s] competitive strategies and in mentoring younger athletes." A letter from the chief executive officer of [redacted] in Latin America states the Petitioner "has played a significant role in the development of competition tires for [redacted]. . . . by testing the tires in various terrain and providing expert feedback on areas that required further development." A letter from the chief executive officer of the [redacted], expresses the Petitioner is "the event's most successful competitor, being the biggest winner in the [redacted], with seven wins" and "played a crucial role in popularizing rally racing in Brazil, inspiring generations of fans and future competitors." A letter from the director of [redacted] asserts the Petitioner's "presence at the [redacted] consistently brings prestige, professionalism, and higher standards to the event." A letter from the founder and director of [redacted] states the Petitioner's "presence in their event brings both prestige and technical excellence, elevating the level of competition and serving as inspiration for upcoming athletes."

Regarding his leading role for [redacted], the claimed job title alone does not establish the Petitioner's role as leading. The Petitioner did not provide, for example, an organization chart or other similar evidence to establish how his role fits within the overall hierarchy of the organization or evidence of the role's matching duties from an authorized official of [redacted]. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Regarding his critical roles for the [redacted], and [redacted], the Petitioner did not sufficiently demonstrate how his participation at the rallies as a competitor and winning at the competitions contributed in a way that is of significant importance to the outcome of the organizations' business activities. *Id.*

Additionally, the support letters indicate that the Petitioner has played critical roles for [redacted] in shaping its competitive strategies and in mentoring younger athletes, for [redacted] in developing its competition tires, and for [redacted] in transforming its team into a well-structured, highly competitive organization. However, the record lacks sufficient independent, objective evidence demonstrating that [redacted], and [redacted] have a distinguished reputation. *See* 8 C.F.R. § 204.5(h)(3)(viii). While the Petitioner submitted information regarding [redacted] from the [redacted] website, information regarding [redacted] from its website, and information about [redacted] and its driving courses and tours from the school website, he did not submit, for example, documentary evidence distinguishing [redacted], [redacted], and [redacted] from other professional racing teams, other tires companies, other professional rally teams, and other off-road schools or training centers, so as to establish that they have a distinguished reputation pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(viii).

Without sufficient documentary evidence demonstrating that the Petitioner has performed in a leading or critical role for organizations or establishments that have a distinguished reputation, the Petitioner has not established that he meets the plain language of this regulatory criterion. *See id.* Accordingly, we withdraw SCOPS' favorable determination as it relates to this criterion.

5. "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).

To meet this criterion, the Petitioner must establish that his salary or remuneration is high relative to the compensation paid to others working in the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Evidence relevant to demonstrating high remuneration may include: (1) tax returns, pay statements, or other evidence of past salary or remuneration for services, (2) contract, job offer letter, or other evidence of prospective salary or remuneration for services, and (3) comparative wage or remuneration data for the person's field, such as geographical or position appropriate compensation surveys. *Id.* Evidence regarding whether the person's compensation is high relative to that of others working in the field may include: (1) geographical or position appropriate compensation surveys and (2) organizational justifications to pay above the compensation data. *Id.*

SCOPS determined that the Petitioner established eligibility for this criterion. However, a review of the record of proceeding does not reflect that the Petitioner submitted sufficient documentary evidence establishing that he meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ix).

The Petitioner asserted that for the 2024 to 2025 and April to August 2022 periods, he received 350,000 Brazilian reals (BRL) from [redacted], and this amount significantly surpasses the average annual salary of BRL 64,700 for motorcycle racers in Brazil. The Petitioner also asserted that his earnings exceed both the 25th percentile annual wage of $38,040 and the median annual wage of $70,280 for athletes and sports competitors in the United States. The record includes a partnership agreement between [redacted] and [redacted] ([redacted]) and its first amendment, a sponsorship agreement between [redacted] and the Petitioner, a commercial partnership agreement between [redacted] and [redacted] and its first amendment, the 2025 average annual salary and average hourly pay for a rally driver in the United States from ZipRecruiter, and income tax statements of [redacted] from 2022 to 2024.

While the Petitioner submitted partnership agreements and income tax return statements for [redacted] in which he claimed to be a managing partner, he did not provide his personal income tax returns, pay statements, other sufficient evidence of his past salary or remuneration for services, or other sufficient evidence of prospective salary or remuneration for services. As discussed in *Matter of Soffici*, 22 I&N Dec. 158, 162 (Assoc. Comm'r 1998), a corporation and an individual are two separate legal entities. This is true even if the individual is the sole shareholder of the business. *See id.* at 161-63.

Furthermore, the record does not contain sufficient objective earnings data showing that the Petitioner has earned a "high salary" or "significantly high remuneration" in comparison with those performing similar work during the same time period and in the same locality. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). While the Petitioner asserted that the average salary for a motorcycle racer in Brazil is BRL 64,700, he did not provide sufficient evidence to substantiate this claim. *See Matter of Soffici*, 22 I&N Dec. at 165) (stating that simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings). The Petitioner provided the 2025 average annual salary for a rally driver in the United States from ZipRecruiter. But he did not provide geographical or position appropriate compensation surveys, organization justifications to pay above the compensation data, or other sufficient evidence to establish that his compensation is high relative to that of others working in the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Therefore, the evidence the Petitioner submitted does not establish that he has received a high salary or other significantly high remuneration for services in relation to others in the field. *See* 8 C.F.R. § 204.5(h)(3)(ix).

The Petitioner's submission of documentary evidence reflecting [redacted]'s earnings from 2022 to 2024 and the 2025 average annual salary for a rally driver in the United States are insufficient to meet the plain language of the regulation without sufficient documentary evidence comparing his salary to high salaries in the field, so as to establish that he has commanded a high salary other significantly high remuneration. *See id.* Accordingly, we withdraw SCOPS' favorable determination as it relates to this criterion.

6. We Reserve the Remaining Claimed Criteria

We conclude that although the Petitioner claims he meets two additional criteria relating to lesser recognized awards and published material, because his arguments fail on any criterion discussed above, that means he cannot numerically meet the required number of at least three criteria. It is, therefore, unnecessary for us to decide on these additional grounds because he cannot numerically meet the required number of criteria. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve these issues. *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).

B. Final Merits Determination

The Petitioner has not submitted the required initial evidence of either a major one-time achievement or documents that meet at least three of the ten criteria. As a result, we do not need to 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 it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward that goal. 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. at 954. In this case, the Petitioner has not sufficiently shown 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 sufficiently demonstrate that the Petitioner has garnered national or international acclaim in the field and that 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; 8 C.F.R. § 204.5(h)(2).

For the reasons we have discussed above, the Petitioner has not demonstrated eligibility as an alien 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 may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.