U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40252037

Date: FEB. 09, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

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

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner was not the recipient of a major, internationally recognized award, and, while she demonstrated four of the ten regulatory criteria, she did not show sustained national or international acclaim and that she is among the small percentage at the very top of the field of endeavor. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

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

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens with extraordinary ability if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry will substantially benefit the United States prospectively. The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis of the evidence to determine whether a petitioner has sustained national or international acclaim and whether their achievements have been recognized in the field. First, a petitioner can provide evidence of either "a

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

Where a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) then considers the totality of the material provided in a final merits determination and assesses whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010) (discussing a two-step review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual (providing, as guidance, USCIS' two-step extraordinary ability analysis).

II. ANALYSIS

The Petitioner has not indicated or established that she has received a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3). She must therefore satisfy at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Based on our de novo review, the Petitioner has not met this showing.

A. Evidentiary Criteria Waived

The Petitioner did not assert in the record below or on appeal that she meets the criteria at 8 C.F.R. § 204.5(h)(3)(v), (vi), or (ix) regarding contributions of major significance, authorship of articles, and high remuneration for services. We therefore deem the Petitioner's eligibility under these three criteria waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012))(An eligibility ground that is not raised on appeal is waived.)

B. Evidentiary Criterion Established

SCOPS determined the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(iv), which requires that she establish her participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. We agree.

C. Evidentiary Criteria Withdrawn

SCOPS also found the Petitioner established the criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), and (viii). We disagree and withdraw SCOPS' determination to the contrary.

The criterion at 8 C.F.R. § 204.5(h)(3)(i) requires the Petitioner establish she received a lesser nationally or internationally recognized prize or award for excellence in her field of endeavor. The Petitioner argued her recognition by the publisher [redacted] qualifies her for this criterion. Setting aside the issue of whether the Petitioner has established that her selection for inclusion on this list is an award or prize, the Petitioner does not sufficiently establish that her recognition on the list was for excellence in her field of endeavor. *See*

generally 6 *USCIS Policy Manual, supra,* at F.2(B)(1). Relevant considerations include, but are not limited to, the criteria used to grant the awards, the number of awardees or prize recipients, and limitations on competitors. *Id.* The Petitioner submitted an article on the [redacted] selection process, which provided that the candidates were self-nominated and "required to include their educational background, details about the operations and innovative achievements of their company, institution or project, and their personal role and key contributions in the registration information." The article further explains that "the selection committee received hundreds of submissions" and then "[a]fter comprehensive evaluation, [] finalized the list of selected individuals" for their top 100 list. The Petitioner made the list in the "growth" category which is for individuals who "have shown significant potential within their industries, which included diverse areas such as: artificial intelligence, healthcare, semiconductors, aerospace, data analysis, art and design, new energy, education, retail, media, and social networking. As a result, the Petitioner has not demonstrated her recognition by [redacted] was for excellence in producing, rather than for her "significant potential" in her industry. For this reason alone, we cannot conclude that the Petitioner meets the plain language of this criterion.

The criterion at 8 C.F.R. § 204.5(h)(3)(ii) requires the Petitioner to establish her membership in associations in the field for which classification is sought. In addition, the association must require outstanding achievements of its members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii); *see generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). The Petitioner established that she is a member of the Producer's Guild of America (PGA) but did not demonstrate that being a member of the PGA requires outstanding achievements of its members. The record shows that the organization consists of over 8,400 producers and, according to a letter by its Chief Executive Officer (CEO) dated March 2025, membership is awarded to those who can meet specific benchmarks with respect to the number of credits/projects an individual must have. The Petitioner does not claim that these benchmarks for membership, such as having a qualifying credit on a minimum of two feature films, amount to outstanding achievements as a producer. Even if the Petitioner had established her membership was based on her outstanding achievement in her field, she did not demonstrate that those achievements were judged by recognized national or international experts. The Petitioner argued that the board of the PGA is comprised of many Oscar-recognized producers. However, the Petitioner did not demonstrate that these individuals were judges in her membership selection. According to the CEO, membership evaluation is done by designated staff and vetting is done by a membership task force made of high-caliber active producers. The Petitioner did not identify and give background on which staff members were involved in her member selection to establish they are national or internationally recognized experts. For these reasons, the Petitioner has not established she meets this criterion.

The criterion at 8 C.F.R. § 204.5(h)(3)(viii) requires the Petitioner to submit evidence that she performed in a leading or critical role for organizations or establishments that have a distinguished reputation. The role may be shown to be leading or critical for a division or department of an organization or establishment, or for the organization or establishment overall. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). The Petitioner claimed that she played a leading and critical role for [redacted]. Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. *Id.* While the Petitioner's title was head of international production, she does not provide us with her job duties or the organizational structure of [redacted] to demonstrate that her overall

responsibilities and rank within the organizational hierarchy was leading. For a critical role, evidence should show that the alien has contributed in a way that is of significant importance to the outcome of the organization or an establishment's activities or those of a division or department of the organization or establishment. *Id.* In support of her critical role, she provided a letter by the former CEO of [redacted], who described her skills, drive, and passion, but did not provide sufficient details regarding whether her contributions were of significant importance to the outcome of [redacted] or a division or department therein. For example, the CEO described the Petitioner's efforts to have a Hollywood film released in China. However, he did not, for example, describe the results of the release and whether it had significant importance to [redacted] to demonstrate the Petitioner played a critical role in the organization. As the Petitioner has not established she played a leading or critical role for [redacted] or a department or division therein, she did not establish she meets this criterion.

D. Remaining Criteria Not Met

While our analysis differs from SCOPS on some elements, we agree with its ultimate determination that the Petitioner did not provide sufficient evidence to establish the criteria at 8 C.F.R. § 204.5(h)(3)(iii), (vii), and (x).

8 C.F.R. § 204.5(h)(3)(iii) requires the Petitioner to submit evidence of published material about her in professional or major trade publications or other major media relating to her work in the field and include the title, date, and author of the material, and any necessary translation. The Petitioner submitted two versions of the same article, one in Chinese along with a certified English translation and one in English posted on [redacted], which was based on an interview with her and contained material about her and her work in the field. First, although the English translation of the article includes a date of [redacted], 2024, and lists the author as "Forbes Insights," on the first page, the article in English does not contain a date or author on the first page. Further the article in English states that it was "written by the organizing committee of the [redacted] Chinese Elite Selection" and the English translation contains a similar statement at the end of the document. For these reasons, we cannot conclude the Petitioner has provided the date for the material and the author of the material. Further, without more, the Petitioner has not established that the article is not a marketing or promotional piece for the "[redacted]" list. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). Regardless, the Petitioner has also not demonstrated that [redacted] is major media. Relevant factors to establish that the published material qualifies as other major media include the relative circulation, readership, or viewership. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). On appeal, the Petitioner highlights that the website has over 112,000 monthly online visitors. And we note that the record includes printouts from SimilarWeb regarding website analysis from October 2024, even though the article was purportedly published in [redacted] 2024 for [redacted], confirming the total visits at 112,000, a global rank of 418,364, a country rank of 33,830, and a category rank of 19,045. But because the Petitioner did not provide context for these figures, their significance has not been established such that we may conclude that [redacted] qualifies as major media.

The Petitioner also submitted articles from variety.com and deadline.com that briefly mention the Petitioner, each only noting that the Petitioner will oversee a project and spending the remainder of the article discussing the project. SCOPS determined that the articles were not sufficiently about the

Petitioner and her work in the field but rather about the project. We agree. The published material should be about the alien and their work. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). On appeal, the Petitioner argues that the mention of Petitioner's appointments as producer on these notable projects demonstrates her recognition in the field and that this should be sufficient to meet this criterion. However, the issue is not whether the project or film she is working on is reputable or famous, but whether the articles include a substantial discussion of her work in the field and mention the Petitioner in connection to the work. *Id.* Here, the articles are about the film projects the Petitioner will produce and not sufficiently about the Petitioner to meet the criterion.

SCOPS also determined the Petitioner did not meet the criteria at 8 C.F.R. § 204.5(h)(3)(vii), which requires the Petitioner submit evidence that her work in the field was displayed at artistic exhibitions or showcases. First, we determine whether the work that was displayed is the person's work product. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). On appeal, the Petitioner asserts that as a producer, she is a high-level decision maker for the movies she produced and for this reason the final product, shown in theaters, is a display of her work. She argues that the reason an academy award for best picture is awarded to the producers is because they are critical to the success of a film. However, the Petitioner is listed as one of many producers or co-producers and she has not submitted evidence sufficiently demonstrating the significance of her contributions as producer for us to conclude the movies are her work product.

Second, we then determine whether the venues, virtual or otherwise, where the alien's work was displayed were artistic exhibitions or showcases. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). Merriam-Webster's online dictionary defines "exhibition" as a public showing (as of works of art, objects of manufacture, or athletic skill). *Exhibition*, Merriam-Webster.com, www.merriam-webster.com. While the dictionary definition includes public showings other than those that are artistic in nature, the plain language of the criterion includes the modifier "artistic" and explicitly requires that the exhibitions or showcases be artistic in nature. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). Here, the Petitioner does not claim and corroborate that the venues that showed the movies were artistic in nature, only stating they were shown in theaters, which are commercial enterprises. For these reasons, the Petitioner has not established the plain language of this criterion.

SCOPS also determined the Petitioner did not establish the criterion at 8 C.F.R. § 204.5(h)(3)(x), which requires she submit evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales. SCOPS concluded the Petitioner had not established she was a performing artist to meet the plain meaning of the criterion. On appeal, the Petitioner asserts for the first time that she presents her evidence of commercial success as comparative evidence.[1] However, in looking at commercial success, the evidence must show that the volume of sales and box office receipts reflect the person's individual commercial success relative to others involved in similar pursuits. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). As noted above, the Petitioner has not demonstrated that the success of the movies she assisted in producing is an accurate reflection of her personal success. For example, she claims she worked as a production executive on a movie that had a worldwide box office return of $856 million. However, she does not explain how her specific contributions as a production executive led to the movie's commercial

[1] The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

success so that it could be considered her personal success. As a result, the Petitioner has not established this criterion or demonstrated her submitted evidence is comparable to the evidence required under this criterion.

E. Final Merits Determination

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. The visa classification is highly restrictive, intended for individuals already at the top of their respective fields. *See* 8 C.F.R. § 204.5(h)(2) (explaining "extraordinary ability" refers only to those in "that small percentage who have risen to the very top of the field of endeavor"). 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 also Kazarian*, 596 F.3d at 1119-20. Therefore, we decline to reach and hereby reserve any 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).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated eligibility as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.