U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40289198

Date: FEB. 11, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a cloud engineer, 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 the Petitioner satisfied the initial evidentiary requirements for this classification but did not establish, as required, that she has sustained national or international acclaim and is among the small percentage at the very top of her field. The matter is now before us on appeal. 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 withdraw SCOPS' decision and remand the matter for the entry of a new decision consistent with the foregoing analysis.

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 to 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 a cloud engineer specializing in supply chain management, cloud computing, and operational organization. She has a master's degree in engineering management from [redacted] The Petitioner plans to advance cloud infrastructure and supply chain innovation in the United States.

Because the Petitioner has not indicated or established that she 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 initially claimed and submitted evidence to satisfy the criteria relating to awards, published materials, judging, contributions, leading or critical role, and salary. Without analysis, SCOPS determined the Petitioner satisfied three of the ten criteria listed in the regulations relating to published material, leading or critical role, and high salary. SCOPS then proceeded to do a final merits determination and found insufficient evidence of sustained acclaim and recognized accomplishments to place the Petitioner among the small percentage at her field's very top. On appeal, the Petitioner contends SCOPS failed "to account for the weight, context, and probative value of the evidence presented in the record." Upon de novo review, we conclude that the record does not establish that the Petitioner meets three of the ten criteria. Specifically, we disagree with SCOPS regarding published material and high salary.[1]

[1] While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

A. Published materials

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished 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." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.* The published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work). Professional or major trade publications may be identified by their intended audience, while other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *See generally 6 USCIS Policy Manual* at F.2(B)(1).

In support, the Petitioner provided an article from *The Nation*, along with a *Similarweb* printout. The *Similarweb* printout indicates "Total visits" of 1.404 million from August 2024 to October 2024. However, the Petitioner has not explained how this statistic supports a determination that *The Nation* qualifies as "major media" by having a high circulation or distribution relative to other online publications. Evidence of published material in major media publications about the Petitioner should establish that the circulation (online or in print) or viewership is high compared to other statistics and identify the intended audience. *Id.* Here, the record does not contextualize those statistics, indicate their significance, or elaborate on how that information could establish that the website is the type of major media contemplated by 8 C.F.R. § 204.5(h)(3)(iii). Moreover, given the lack of information regarding the intended audience of *The Nation*, the record does not establish that it is a professional or trade publication.

In addition, the Petitioner provided a press release from Marquis Who's Who, along with a published interview with the editor of Who's Who and an article about the 60th edition of Who's Who in *The New York Times*. First, the press release does not include the author of the material as required. *Kumar v. Dir. of U.S. Citizenship & Immigr. Servs.*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024) (upholding plaintiff's evidence did not include the required title, date, or author). Second, as the article is labeled as a "press release," it indicates that an unnamed third party submitted the article for publication. The origin of the article is material to this proceeding because promotional or marketing materials are not generally considered to be published material about the person. This includes seemingly objective content about the person in major print publications that the person or the person's employer paid for. *See generally 6 USCIS Policy Manual* at F.2(B)(1). While the article is identified as a press release, the Petitioner has not identified the source of that press release, which undermines the value of the article.

We therefore withdraw SCOPS' finding that the Petitioner satisfied this criterion.

B. Salary

As for the regulation at 8 C.F.R. § 204.5(h)(3)(iii), it calls for "evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. Comparative wage or remuneration data that is appropriate for the alien's occupation and location

should be submitted to establish that their compensation is high relative to others working in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1).

In support, the Petitioner provided a document entitled "Total Rewards" as of August 2024 showing that her base salary as a senior product manager with [redacted] is $177,000. It also shows non-guaranteed compensation such as a sign-on bonus of $30,000; stocks value at $24,000; and benefits totaling $24,839. In addition, the Petitioner submitted her 2023 W-2 and Earnings Summary showing $253,387.92 under "Wages, tips, other comp." and $160,200 under "Social security wages," along with two copies of her Earnings Statements from November 2024 that shows her bi-weekly base rate as $7458.33 or $193,916 annually. The Petitioner's work location is in [redacted] Texas.

The Petitioner also provided the Bureau of Labor Statistics (BLS) Occupational Employment and Wage Statistics (OEWS) data in 2023 which indicates the "annual mean wage" for engineers, all other in Texas was $116,750. Moreover, the Petitioner submitted data from Talent.com, which indicates that the "Senior Product Engineer average salary in the USA, 2024" is $145,111 per year and "most experienced workers make up to $192,676 per year."

First, the Petitioner has not established that her cloud engineer position falls under the occupational category of engineers, all others, or that it is the same or similar to senior product engineers. Second, the mean salary information for Texas from the OEWS is for a 2023 statewide survey of engineers, all other in all settings (i.e., architectural, scientific research, and management), as well as across geographic areas, both major metropolitan areas and those that are not. Moreover, the data from Talent.com does not provide salary data for the area where the Petitioner works. Without more, such general information is insufficient to establish that she meets this criterion.

Here, the Petitioner has not provided sufficient evidence that would allow a comparison between her total remuneration and that of other similarly employed workers in her geographic area, [redacted] Texas. Both precedent and case law support this application of 8 C.F.R. § 204.5(h)(3)(ix). *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 Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *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).

Therefore, we also withdraw SCOPS' finding that the Petitioner satisfied this criterion.

As the record does not establish that the Petitioner meets three of the ten regulatory criteria and SCOPS did not address the Petitioner's other claimed criteria, we will remand the matter. SCOPS should consider all of the evidence submitted in support of the claimed criteria and specifically address its deficiencies and inconsistencies.

For example, regarding the regulation at 8 C.F.R. § 204.5(h)(3)(i), the Petitioner asserts eligibility for this criterion based on her Global Recognition Award and the Gartner's Global Supply Chain Top 25 awarded to her former employer for rising to number four in the supply chain rankings. In support, the Petitioner submitted information about the awards including media articles and criteria. Notably,

the record lacks evidence regarding relative circulation or readership information about the publications to demonstrate that the awards are nationally or internationally recognized. SCOPS should determine whether the Petitioner has established that she received nationally and internationally recognized awards based upon excellence in her field.

Moreover, under the regulation at 8 C.F.R. § 204.5(h)(3)(iv), the Petitioner provided an email invitation and a certificate of appreciation from the Globee Awards. SCOPS should determine if this evidence demonstrates that the Petitioner participated in the judging "of the work of others in the same or an allied field of specification." *See generally 6 USCIS Policy Manual* F.2(B)(1).

Finally, to establish original contribution criterion at 8 C.F.R. § 204.5(h)(3)(v), the Petitioner submitted emails discussing various supply chain initiatives and projects for data centers that list the Petitioner as a contributor along with several other individuals. She also submitted articles about her former employer's artificial intelligence initiatives. Notably, the articles do not mention the Petitioner. SCOPS should determine if the evidence shows that the Petitioner has made original contributions of major significance in the field.

III. CONCLUSION

If SCOPS determines the Petitioner satisfies three of the ten criteria listed in the regulations, SCOPS should conduct a final merits determination of the totality of the evidence (including the Petitioner's claims on appeal). We observe that SCOPS did not consider all of the evidence together under the final merits determination. The new decision should include an analysis of the totality of the evidence evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim, her status as one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation. *See* section 203(b)(l)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

ORDER: SCOPS' decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.