U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40779006

Date: JAN. 12, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner works in financial management and 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.

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition) concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did he demonstrate that he met at least three of the ten regulatory criteria. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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.[1]

I. LAW

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The alien enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The alien's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. The term "extraordinary ability" refers only to those in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2).

[1] The attorney of record failed to follow the Form G-28 instructions when they listed their own address in the portion reserved for the Petitioner's mailing address. The Form G-28 instructions specifically state: "Provide the mailing address of the client. Do not provide the business mailing address of the attorney or accredited representative unless it serves as the safe mailing address on the application or petition being filed with this Form G-28." This case is not one with a safe mailing address.

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-step analysis. In the first step, a petitioner can demonstrate international 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).

Where a petitioner meets these initial evidence requirements, we then move to the second step to 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, 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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022).

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). Before SCOPS, the Petitioner claimed he met five of the regulatory criteria. SCOPS decided that the Petitioner satisfied one criterion relating to published material, but that he had not satisfied the criteria associated with prizes or awards, membership, original contributions, and performing in a leading or critical role. On appeal, the Petitioner maintains that he meets the same criteria except he no longer asserts he qualifies in part based on any memberships. We therefore consider his membership claims to be waived. *Matter of Landers*, 29 I&N Dec. 240, 242 n.2 (BIA 2025) (finding a topic is waived that was an issue before the lower adjudicative body but the filing party does not raise it on appeal). Within the appeal the Petitioner also incorrectly indicates that USCIS granted him the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi). After reviewing all the evidence in the record, we conclude he has not satisfied any of the regulatory criteria and therefore has not demonstrated eligibility for this immigrant classification.

1. "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).

Within the appeal, the Petitioner incorrectly surmises that USCIS granted him this criterion. Neither SCOPS' request for evidence (RFE) nor their denial decision discussed his claims or evidence under this criterion. A review of the correspondence the Petitioner submitted with the initial filing and in the RFE response also lack any mention of his eligibility under this specific regulatory requirement. If it is the Petitioner's contention that he met a particular criterion not discussed by SCOPS, he never provided such a statement or discussion in this regard. The burden is on the Petitioner to establish eligibility. It is not SCOPS' responsibility to infer or second-guess the criteria the Petitioner intends to claim.

2. "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).

This criterion contains multiple evidentiary requirements the Petitioner must satisfy. First, the published material must be about the Petitioner and the contents must relate to the Petitioner's work in the field under which they seek classification as an immigrant. The published material must also appear in professional or major trade publications or other major media. Professional or major trade publications are intended for experts in the field or in the industry. To qualify as major media, the Petitioner must establish the circulation statistics are high relative to other similar forms of media. The final requirement is that the Petitioner provide each published item's title, date, and author and if the published item is in a foreign language, they must provide a translation that complies with the requirements found at 8 C.F.R. § 103.2(b)(3). The Petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The Petitioner provided four articles about him and related to his work in the field, in addition to informational printouts about each publication or website. But absent from the record is "the relative circulation, readership, or viewership." *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual.

One article the Petitioner offered titled, [redacted] appeared in China Enterprise News, but the Petitioner provided circulation and user information for a differently named entity, China Enterprise Press. The Petitioner did not demonstrate that China Enterprise Press is the same entity that published the brief snippet about him.

Next, the supporting documents from the Industrial Development Research Network discusses information about what types of material the publication covers and the personnel who work for the company, but it does not include any facts to demonstrate this is major media. Regarding another article, the Petitioner submitted evidence from the publisher stating that "China Economic News Network is a central news website. It is a comprehensive economic news website established based on the talent and information resources of China Economic Times." However, he did not offer evidence relating to this publication's circulation or readership to demonstrate it qualifies as a form of major media relative to other forms of significant media resources. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(1).

Also part of the record is an article that appeared in Entrepreneur Daily. The Petitioner provided the Entrepreneur Daily's *About Us* website printout and its English translation. The website reflected that Entrepreneur Daily "is the only large-scale economic daily in China that is publicly distributed at home and abroad and directly targets people in the economic sector and government economic departments." It also reflected it "is a newspaper and industry group system led by Entrepreneur Daily, which includes several newspaper and periodical publishing industries and industries [sic]." However, we are not required to accept a publication's own claims relating to whether it qualifies as major media, as such self-serving claims are not sufficiently probative. *Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 185 (D. N.J. 2021); *Victorov v. Barr*, No. CV 19-6948-GW-JPRX, 2020 WL 3213788, at *8 (C.D.

Cal. Apr. 9, 2020) (upholding self-promotional material from the publisher's website was not especially reliable evidence). Probative evidence is the type that "must tend to prove or disprove an issue that is material to the determination of the case." *Matter of E-F-N-*, 28 I&N Dec. 591, 593 (BIA 2022) (quoting *Matter of Ruzku*, 26 I&N Dec. 731, 733 (BIA 2016)). If some form of the Petitioner's evidence does not adequately prove their contention, then it is not considered to be probative.

The bulk of the data about the circulation or readership of the publications the Petitioner relied on was in his correspondence to USCIS, but his assertions about whether his evidence constitutes major media are not sufficient to meet the regulation's requirements. The Petitioner's unsupported statements have little evidentiary value and will not make a prima facie eligibility showing not satisfy his burden of proof. *See Matter of G-C-I-*, 29 I&N Dec. 176, 178 (BIA 2025).

SCOPS determined that the Petitioner met the requirements of this criterion. But as we have explained, we do not agree with that conclusion and we withdraw their favorable determination for this criterion.

3. "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).

This criterion contains several evidentiary elements, all of which must be met to satisfy the regulation. According to the plain language of the regulation the evidence must establish: (1) the alien is the recipient of the prizes or the awards; (2) those accolades are nationally or internationally recognized; and (3) each prize or award is one for excellence in the field of endeavor.

SCOPS determined that the Petitioner did not meet the requirements of this criterion as none of the prizes or awards the Petitioner received were both issued for excellence in the field and were nationally or internationally recognized. On appeal, the Petitioner generally disagrees with SCOPS' conclusion, but he only asserts the characteristics of the evidence he submitted before SCOPS without discussing any particular award, or what supporting material demonstrated it was nationally or internationally recognized for excellence in the field.

At best, the Petitioner points to the pages within the initial filing cover letter and his RFE response cover letter in which he explained why each of the required elements under this criterion were satisfied. We note that SCOPS' RFE informed the Petitioner that his claims and evidence were not adequate and they sought additional documentary evidence; not simply additional arguments from him. However, the Petitioner only responded to the RFE with more explanations and assertions but with no additional supporting material. To now only express disagreement with SCOPS' determination and to rely on assertions that USCIS previously determined were inadequate falls short of demonstrating that SCOPS made an error when evaluating his claims and evidence under this criterion.

The Petitioner does not identify what, if any, evidence SCOPS might have disregarded or how his previous claims demonstrated eligibility. The reason for filing an appeal is to provide an affected party with the means to remedy what they perceive as an erroneous conclusion of law or statement of fact within a decision in a previous proceeding. *See* 8 C.F.R. § 103.3(a)(1)(v). It is insufficient to merely assert that SCOPS made an improper determination. Where a question of law is presented, supporting authority should be included, and where the dispute is on the facts, there should be a discussion of the particular details contested. *Matter of Valencia*, 19 I&N Dec. 354, 355 (BIA 1986).

Because we find no error in SCOPS' analysis here, we consider the Petitioner's arguments under this requirement to be forfeited or waived. *Matter of Garcia*, 28 I&N Dec. 693, 693 n.1 (BIA 2023) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012) and finding issues that are not meaningfully challenged in the appeal are waived). A bare and conclusory assertion is insufficient to preserve an argument for resolution on the merits in an appeal. *Thaler v. Perlmutter*, 130 F.4th 1039, 1052 (D.C. Cir. 2025) (citing *Abdullah v. Obama*, 753 F.3d 193, 199 (D.C. Cir. 2014).

Ultimately, the Petitioner has not satisfied this criterion's requirements.

4. Original Contributions of Major Significance under 8 C.F.R. § 204.5(h)(3)(v) and Performance in a Leading or Critical Role under 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner's appellate claims under these two criteria bear the same fatal flaw as those under the awards criterion: he expresses disagreement with the outcome and briefly notes his previous claims without identifying how SCOPS might have erred, which is an inadequate basis to rely on in this appeal. *See* 8 C.F.R. § 103.3(a)(1)(v); *Matter of Valencia*, 19 I&N Dec. at 355. As a result, the Petitioner has waived these two additional eligibility claims on appeal. *Matter of Garcia*, 28 I&N Dec. at 693 n.1; *Thaler*, 130 F.4th at 1052.

Even if that were not the case, because the Petitioner has not demonstrated that he has satisfied any single criterion, he cannot numerically meet the required number of criteria and it is unnecessary for us to make a decision on these additional grounds. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve his additional claims or issues. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of M-S-I-*, 29 I&N Dec. 61, 65 (BIA 2025) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a 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.

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. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown the significance of their 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). Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or

international acclaim in the field, and they are one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) and 8 C.F.R. § 204.5(h)(2).

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