U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38716065

Date: JULY 15, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a content developer and influencer from Brazil, seeks classification as an individual 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 petition, concluding that the record did not establish, as required, that the Petitioner met three of the initial ten evidentiary criteria for this classification listed at 8 C.F.R. § 204.5(h)(3). 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 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 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

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has 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 claims to have met six criteria relating to lesser nationally or internationally recognized awards, authorship of scholarly articles, performing a leading or critical role, commanding a high salary, and commercial success under 8 C.F.R. § 204.5(h)(3)(i), (vi), (vii), (viii), (ix), and (x), respectively.

SCOPS determined that the Petitioner satisfied two of the six claimed initial evidentiary requirements relating to published material and to display of her work at artistic exhibitions or showcases but did not show that she met the remaining four claimed criteria. SCOPS therefore found that the Petitioner did not satisfy at least three of the ten evidentiary criteria for extraordinary ability. We agree that the Petitioner has satisfied the published material criterion. However, upon de novo review we will withdraw SCOPS' finding that the Petitioner met the criterion related to display of her work at artistic exhibitions or showcases.

On appeal, the Petitioner contends that she meets the remaining five claimed criteria relating to lesser nationally or internationally recognized awards, authorship of scholarly articles, performing a leading or critical role, commanding a high salary, and commercial success. For the following reasons, we

disagree. Accordingly, the Petitioner has not satisfied at least three of the ten initial evidentiary criteria, as required.

1. "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).

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner claimed that she met this criterion based upon her receipt of the [redacted] and [redacted] awards. She submitted pictures of these awards demonstrating that she received them. The Petitioner also provided the criteria for receiving these awards. These criteria, among other requirements, stated that the recipient must "reach 100,000 subscribers" to receive the [redacted] and "reach 1,000,000 subscribers" to receive the [redacted] With her response to SCOPS' request for evidence (RFE), the Petitioner asserted that these metrics demonstrate that these awards are given to recipients based upon excellence in the field of content creation as "less than **1% of creators** globally achieve these levels of influence and engagement." (emphasis in original.). However, the Petitioner does not offer evidence to corroborate her assertion that less than 1 percent of content creators receive these awards, or to explain how this demonstrates that these awards are granted for excellence in the field of content creation. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Further, the Petitioner does not offer sufficient evidence to show that the award is nationally or internationally recognized in her field of endeavor. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 182 (D.N.J. 2021) (finding the regulation requires that the petitioner provide evidence of national or international recognition); *see also Visinscaia v. Beers*, 4 F. Supp. 3d at 136; *Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *8-9 (N.D. Cal. Feb. 16, 2021); *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885, at *8 (E.D.N.Y. Sept. 30, 2011). For example, the Petitioner does not offer evidence to show how these awards are viewed by a larger audience. *See Visinscaia v. Beers*, 4 F. Supp. 3d at 136 (finding that without evidence reflecting how a larger audience viewed the plaintiff's awards, there was no way to evaluate whether those awards were recognized widely enough to satisfy the awards criterion). The Petitioner therefore has not met this criterion.

2. "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) calls for "evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." In academia, a

[1] The remainder of the criteria are specific to [redacted] itself. For example, recipients must adhere to [redacted] Terms of Service and Community Guidelines and have no active violations. They must also maintain an active channel with recent uploads.

scholarly article reports on original research, experimentation, or philosophical discourse, is generally peer reviewed, and may be published in professional or scientific journals or conference presentations. In other fields, a scholarly article should be written for others who have profound knowledge in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. *Id.* It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. *Id.* Scholarly articles are generally peer reviewed by other experts in the field of specialization. *Id.* In general, articles should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article. *Id.*

The Petitioner claims to satisfy this criterion based upon her book, [redacted] The record includes a copy of this book, a full certified English language translation, and information about the publisher of this book. This evidence does not show that the Petitioner's book contains the characteristics of scholarly articles, as considered in the academic arena. For example, her book lacks footnotes, endnotes, or a bibliography. Further, the Petitioner does not offer evidence to show that her book was peer reviewed by other experts in the field of content creation. In addition, the Petitioner did not establish that she wrote this book as a researcher or expert in the field of content creation. For other fields, a scholarly article should be written for learned persons in that field. *Id.* Learned persons include all persons having profound knowledge of a field. *Id.* In a letter accompanying the underlying petition, the Petitioner describes her book as "resonat[ing] with a wide audience". The Petitioner does not otherwise describe this audience or offer evidence to show that her book was written for learned persons in the field of content creation or another particular field rather than a general audience.

On appeal, the Petitioner also contends that her book qualifies as a professional publication. However, the record does not support her contention. To determine whether the publication qualifies as a professional or major trade publication or other major media, we consider such relevant factors as the circulation or readership relative to other media in the field and the intended audience (for professional journals). *Id.* In evaluating whether a submitted publication is a professional publication, a relevant factor includes the intended audience. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The term "profession" includes but is not limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act, 8 U.S.C. § 1101(a)(32). Moreover, in addition to one of these occupations listed in section 101(a)(32) of the Act, "profession" means any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry in the occupation. *See* 8 C.F.R. § 204.5(k)(2). In the Petitioner's book itself, the publisher states that it seeks to connect "authors and readers" but does not otherwise describe the intended audience for the Petitioner's book as professionals in any particular field. The descriptive materials from the publisher's website states that it believes that "each person has a unique story to tell and valuable ideas to share" and wants "to give everyone the opportunity to turn these stories and ideas into books that can be read by everyone," indicating that the publisher targets a general audience rather than influencers and content creators. Because the Petitioner did not demonstrate the publication's intended audience meets the definition of "profession" as defined in the law and regulations, she has not established that her book qualifies as a professional publication. She also does not assert, and the record does not otherwise show, that her book is a major trade publication or other major media. She therefore does not satisfy this criterion.

3. "Evidence of the display of the alien's work in the field at artistic exhibitions or showcases." 8 C.F.R. § 204.5(h)(3)(vii).

The regulation at 8 C.F.R. § 204.5(h)(3)(vii) requires "[e]vidence of the display of the alien's work in the field at artistic exhibitions or showcases." In addition to demonstrating that the displayed work was the alien's work product, the venues (virtual or otherwise) where the work was displayed must be artistic exhibitions or showcases. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). USCIS determines whether the venues (virtual or otherwise) where the person's work was displayed were artistic exhibitions or showcases. *Id.* While *Merriam-Webster's* online dictionary definition of "exhibition" 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. *Id.*

The record includes articles about the Petitioner and her [redacted] channel, the Petitioner's description of this channel, screenshots of [redacted] posts, and transcripts of these posts accompanied by certified English language translations. The Petitioner describes her [redacted] channel as "a lifestyle platform where [she] shares her daily life, beauty tips, and personal experiences to inspire and engage her audience." The screenshots and transcripts of her [redacted] channel posts indicate that they cover topics including the birth of her child, instructions for braiding hair, and showing how to make candies, chocolates, and other desserts. The articles in the record alternatively describe the Petitioner's [redacted] channel as a "[b]eauty channel" and one for which she "creates content about beauty, travel products, personal life, and even recipes." This evidence demonstrates that it is the Petitioner's own work product that is displayed on her [redacted] channel. However, although the [redacted] channel is described as a "beauty channel" or "lifestyle channel," the Petitioner does not offer sufficient evidence to explain how or establish the channel constitutes an exhibition or showcase that is artistic in nature. It is the Petitioner's burden to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Absent evidence to demonstrate that the Petitioner's [redacted] channel is artistic in nature, the Petitioner has not satisfied this burden.

As additional evidence to satisfy this criterion, the Petitioner provided a screenshot indicating that she appeared on the Brazilian television program [redacted] and the Wikipedia entries for the [redacted] television program and the [redacted] the network on which this program airs. However, the Petitioner does not offer sufficient evidence to demonstrate that her appearance on this show is a display of her work. Moreover, the Petitioner does not offer evidence to show that this television show is an artistic exhibition. *See Sarin v. United States*, No. 2:22-CV-07498-SVW-JS, 2023 WL 5667531, at *11 (C.D. Cal. July 27, 2023) (upholding a television show did not constitute an artistic exhibition designed to showcase work).

For the above stated reasons, we disagree with and withdraw SCOPS's conclusion that the Petitioner satisfies this criterion at 8 C.F.R. § 204.5(h)(3)(vii).

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).

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "evidence that the alien has 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. 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 establishment's activities or those of a division or department of the organization or establishment. In determining whether the organization or establishment, or a department or division thereof, has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *See* 6 *USCIS Policy Manual*, *supra,* at F.2(B)(1).

On appeal, the Petitioner contends that she has served in a critical role for organizations with a distinguished reputation. The record contains letters of support from C-F-, president of [redacted], C-C-, director of [redacted] and chief executive officer of [redacted], T-F-, marketing manager for [redacted] and R-N-, a research scientist at [redacted] submitted to establish that she has performed in a critical role for their respective organizations.

C-F- states that the Petitioner has "demonstrated a palpable impact, driving our content production to new heights" and that her work has "result[ed] in highly successful partnerships and projects," but it does not detail or explain how her work has contributed in a way that is of significant importance to the company's activities. C-C-'s letter asserts the Petitioner's involvement in a marketing project for [redacted] "was instrumental in its success" and "led to a significant positive impact on the market and the brand's consumers." In a second letter, submitted with the Petitioner's response to SCOPS' RFE, C-C- indicates that the Petitioner has played a critical role for [redacted] through a collaboration that allows [redacted] to use the Petitioner's name, image, and personal brand in promoting the company's products. C-C- asserts generally that this partnership has resulted in an increase in company sales and audience engagement and allowed for expansion into markets but does not elaborate or provide more specific detail on how it has done so. Similarly, the correspondence from T-F-, who previously worked for [redacted] indicates that the Petitioner's work on the integration of [redacted] products into the television program [redacted] was "instrumental in ensuring the campaign's success" and resulted in a "2% increase in product sales and 10% growth in social media engagement for the brand". However, apart from these general assertions, T-F- does not further articulate or provide additional information explaining how the Petitioner's work resulted in or was of significant importance in achieving these outcomes. Finally, R-N- states that he worked with the Petitioner to increase engagement with and attendance of new students at a conference for the [redacted] in 2025, praising her work and noting that it resulted in increased applications by the target population, but also did not provide specific details to how her work or contributions. Without specific, detailed information, these letters do not show the Petitioner's leading or critical role. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that this is one criterion where letters from persons with knowledge of the significance of the person's leading or critical role can be particularly helpful to officers in making this determination, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical); *Visinscaia v. Beers*, 4 F. Supp. 3dat 134(upholding the lack of sufficient detail regarding the plaintiff's

role at an organization did not show he could satisfy this criterion on the basis of the letter alone); *Chivukula v. Allen*, No. 3:22-CV-0381-S, 2023 WL 4504601, at *5 (N.D. Tex. May 1, 2023) (finding USCIS' determination that plaintiff provided letters making broad assertions without showing how he was crucial to the companies and did not explain how his contributions resulted in successes to the companies' overall activities were consistent with USCIS policy); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *5 (D. Neb. Mar. 10, 2025) (finding that beyond conclusory statements, the plaintiff provided little evidence that was truly illustrative of the importance of her roles).

This regulatory criterion also requires the organization or establishment, or the department or division for which the person holds or held a leading or critical role, to have a distinguished reputation. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). *Meriam-Webster's* online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Id.* To establish the distinguished reputations of [redacted] and [redacted] the Petitioner offered descriptive materials from the websites for each of these entities.[2] The screenshot from [redacted] website describe the company as a "leading Brazilian meat producer" and touts its production of chickens, while the screenshots from the [redacted] website provides a list of its best-selling shampoos and conditioners. The printout for [redacted] describes the organization and lists its core values. However, the Petitioner does not explain or show how these self-promotional materials for these entities' on their own websites demonstrate that they garnered a distinguished reputation. *See Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *5 (S.D.N.Y. Mar. 21, 2023) (finding self-promotional material from the organization did not establish a sufficiently high reputation). The Petitioner therefore has not satisfied 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).

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) 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. *Id.*

To establish that the Petitioner satisfies this criterion, she submitted, in relevant part, tax returns reflecting that that she earned a salary of R$ 96,656 Brazilian Reais, a SalaryExpress report providing an annual average salary for content creators in [redacted] Brazil, and an expert opinion letter. She contends that, as she commands a salary that is 2.87 percent higher than the annual average salary earned by content creators, she satisfies this criterion. Here, the Petitioner compares her salary as an influencer and content creator to that of salaries of content creators not performing the additional role of influencer. She does not establish that she commanded a high salary in relation to those who are both influencers and content creators. Both precedent and case law support this application of 8 C.F.R.

[2] The Petitioner does not offer evidence related to the distinguished reputations of [redacted]

§ 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). Here, the Petitioner did not show that the comparison of average and median salaries of single-role positions reflects she commanded a high salary in relation to others performing multiple roles.

Further, the Petitioner provides a SalaryExpert report that provides average salary statistics for content creators. Average and median salaries are insufficient to establish the Petitioner commanded a high salary in relation to others in the field. *See Strategati, LLC v. Sessions*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at *7 (S.D. Cal. May 31, 2019) (upholding evidence of average salary levels is an insufficient basis for comparison to show high salary in relation to others in the field); *see also Kinuthia*, 702 F. Supp. 3d at 11; *Mussarova v. Garland*, 562 F. Supp. 3d 837, 853 (C.D. Cal. 2022). Proving a salary is "above average" typically doesn't suffice to establish a "high salary" or "significantly high remuneration." More comprehensive wage data is needed to effectively demonstrate high earnings relative to peers rather than to incumbents into the field of content creation.

Moreover, according to the SalaryExpress report in the record, the Petitioner's salary is 2.87 percent higher than that of the "typical incumbent in the position" of content creator and does not account for years of experience. The Petitioner does not show or otherwise explain how a salary report for a content creator not accounting for years of experience reflects an "apples to apples" comparison of the salary of someone with her stated level of experience. This salary report is therefore insufficient to demonstrate that she commands a high salary in relation to others in the field of content creation. *See Xia v. Miller,* No. 3:20-CV-01468-JR, 2021 WL 5817324, at *6 (D. Or. Nov. 18, 2021), *report and recommendation adopted*, No. 3:20-CV-01468-JR, 2021 WL 5825999 (D. Or. Dec. 6, 2021) (finding plaintiff must show that salary reports reflect an apples to apples, rather than an apples to oranges, comparison).

In addition, according to an expert opinion letter submitted by the Petitioner and included in the record below, "the degree of difference (2.87 %) may not establish a significantly high renumeration in a global context." USCIS may, in its discretion, use advisory opinion statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought and may reject or give lesser evidentiary weight to expert testimony that contradicts other information or "is in any way questionable." *Id.* Here we acknowledge that this letter further clarifies that "contextualizing in [redacted] market illustrates [the Petitioner's] professional success and recognition," and concludes that she meets the "high remuneration" threshold for her field and location. However, this letter does not provide probative details showing or otherwise explaining how the Petitioner's success and recognition contextualize her salary in [redacted] market in a manner that would indicate that it is high relative to others in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9 at 15. The Petitioner therefore has not met this criterion.

Accordingly, the Petitioner has not satisfied at least three of the ten evidentiary criteria for extraordinary ability as 8 C.F.R. § 204.5(h)(3) requires.

B. 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. 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 Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve arguments concerning the remaining criteria, as well as a 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).

C. O-1 Classification

On appeal, the Petitioner argues that SCOPS erred in failing to consider that she previously was approved for O-1 nonimmigrant status, a classification reserved for nonimmigrants of extraordinary ability. We acknowledge that the record reflects that the Petitioner was approved for O-1 nonimmigrant status. However, this prior approval for a nonimmigrant classification does not preclude USCIS from denying an immigrant visa petition, which is adjudicated based on a different standard, statute, regulations, and case law. *See Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *9 (N.D. Tex. June 17, 2025); *Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *2 (S.D.N.Y. Mar. 21, 2023); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025). Many immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Sunlift Int'l, Inc. v. Mayorkas, No. 20-CV-08869-JCS, 2021 WL 3111627, at *11 (N.D. Cal. July 22, 2021); Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25, 29-30 (D.D.C. 2003); *IKEA US, Inc. v. U.S. Dep't of Just. INS*, 48 F. Supp. 2d 22, 23 (D.D.C. 1999), *aff'd sub nom. IKEA US, Inc. v. Dep't of Just., INS*, No. 99-5159, 1999 WL 825420 (D.C. Cir. Sept. 27, 1999); *Fedin Bros. Co. v. Sava*, 724 F. Supp. 1103, 1104 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d Cir. 1990). Furthermore, our authority over SCOPS, the office adjudicating nonimmigrant visa petitions, is comparable to the relationship between a court of appeals and a district court. Even if SCOPS has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigrant petition. *See Louisiana Philharmonic Orchestra v. INS*, No. CIV. A. 98-2855, 2000 WL 282785, at *2 (E.D. La. Mar. 15, 2000).

III. CONCLUSION

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