U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 40527144

Date: JULY 24, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a pharmacist, seeks classification as an individual of extraordinary ability in business. *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 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.*

USCIS denied the petition, concluding that the Petitioner did not establish either that she received a major, internationally recognized award, or that she satisfied at least three of the 10 initial evidentiary criteria. 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) 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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of their 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 10 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).

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).

## II. ANALYSIS

The Petitioner described the endeavor as a plan "to launch my own technological company dedicated to addressing pressing issues in the safety of online pharmaceutical sales [and] to ensure patients can access medications that meet the highest safety and efficacy standards, thereby fostering job creation and economic growth through innovation and collaboration within the American healthcare industry."

USCIS concluded that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix); however USCIS found that the record does not satisfy the criteria at 8 C.F.R. §§ 204.5(h)(3)(iii), (vi), and (viii), noting that the Petitioner did not assert eligibility under other criteria. On appeal, the Petitioner reasserts that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(iii), (vi), and (viii), in addition to the criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (ix). The Petitioner does not assert on appeal—and the record does not support the conclusion—that the record satisfies the remaining criteria.

### A. High Salary or Other Significantly High Remuneration

We first note that, contrary to USCIS' conclusion, the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ix); therefore, we withdraw USCIS' statements to that effect, for the reasons discussed below.

The criterion at 8 C.F.R. § 204.5(h)(3)(ix) requires "[e]vidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field."

The Petitioner submitted documentation regarding her income received from her current employer, [redacted] and copies of salary comparisons provided by Salary.com. However, the Petitioner's employment at [redacted] is immaterial to the claimed area of extraordinary ability. *See* section 203(b)(1)(A)(ii) of the Act. The Petitioner specifically stated that she has "extraordinary ability in [p]harmacy, specifically in [p]harmacological regulatory affairs and management." However, the record shows that [redacted] employs the Petitioner as a "senior program manager" in its [redacted] division or department. She describes her duties, including negotiating and enforcing contracts regarding "a category prone to returns and product defects," developing "pricing strategies tailored to the unique dynamics of the refurbished retail market," and promoting brand differentiation

and improving the quality of refurbished goods. She does not relate that her work at [redacted] in its [redacted] division or department pertains to pharmaceuticals in general and pharmaceutical regulatory affairs more specifically. Therefore, her employment at [redacted] is immaterial to the claimed area of extraordinary ability.

Even if the Petitioner's employment at [redacted] were material to the claimed area of extraordinary ability, which it is not, the record nevertheless would not satisfy this criterion. The salary comparisons the Petitioner submitted inform, "Your estimated salary is $2,402 less than the median pay of this job in the United States," "Your estimated salary is $3,431 less than the median pay of this job in the United States [with] 3-4 years of experience in this job," and "Your estimated salary is $3,793 less than the median pay of this job in [redacted] WA." Despite having a below-median salary, the Petitioner asserts that, including company stock and bonuses, her "total compensation package . . . significantly exceeds industry norms for similar roles, especially for entry-level management positions." However, she did not submit evidence of what industry norms for total compensation packages for similar roles are, beyond median salary data provided by Salary.com.

As noted, the Salary.com evidence indicates that the Petitioner's salary is below the median pay for her job, whether throughout the United States; within [redacted] Washington; or with similar years of experience in the job. Without evidence of what industry norms for total compensation packages for similar roles are, the record does not otherwise establish that the Petitioner has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. Therefore, the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ix).

B. Published Material About the Alien

We withdraw USCIS' conclusion that the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(iii), for the reasons discussed below.

The criterion 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. Such evidence shall include the title, date, and author of the material, and any necessary translation."

USCIS acknowledged that the Petitioner submitted publications about her; however, USCIS stated that the record describes the publications inconsistently, and it does not establish circulation information regarding the publications, relative to others. Based on those issues, USCIS determined that the record does not establish that the material about the Petitioner was published in professional or major trade publications or other major media, as contemplated by the criterion at 8 C.F.R. § 204.5(h)(3)(iii).

On appeal, the Petitioner asserts that, contrary to USCIS' conclusion, the record establishes the publications' relative circulation and that, therefore, they are the type of major media contemplated by the criterion at 8 C.F.R. § 204.5(h)(3)(iii). While we do not agree that all the submitted publications meet this criterion, the Petitioner has provided sufficient evidence to meet the plain language of 8 C.F.R. § 204.5(h)(3)(iii).

C. Authorship of Scholarly Articles in the Field

We withdraw USCIS' conclusion that the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(vi), for the reasons discussed below.

The criterion at 8 C.F.R. § 204.5(h)(3)(vi) requires "[e]vidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media."

USCIS acknowledged that the record contains copies of articles the Petitioner authored or co-authored. However, USCIS determined that the record does not establish that the media that published the Petitioner's articles are professional or major trade publications or other major media, as required by the criterion at 8 C.F.R. § 204.5(h)(3)(vi).

On appeal, the Petitioner asserts that, contrary to USCIS' conclusion, the media that published the Petitioner's articles qualify as professional or major trade publications or other major media. We agree.

Because the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(iii) and (vi), in addition to the criterion at 8 C.F.R. § 204.5(h)(3)(iv), the Petitioner meets at least three of the 10 criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). Therefore, we reserve our opinion regarding whether the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(viii). *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

D. Final Merits Determination

The record does not show the Petitioner has sustained national or international acclaim and demonstrate that she is among the small percentage at the very top of the field of endeavor. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

Black's Law Dictionary defines "sustain" as "to support or maintain, especially over a long period of time" or "to persist in making (an effort) over a long period of time." *Sustain*, Black's Law Dictionary (11th ed. 2019).

In general, evidence in this case is limited to few instances, which occurred shortly before the Petitioner filed the Form I-140, Immigrant Petition for Alien Workers, in 2025. For example, the three articles about the Petitioner were published in 2021, 2024, and 2025, respectively. Similarly, the Petitioner authored or co-authored three published articles with few or no citations: one article in 2020, and two articles in 2024. Evidence in the record from Google Scholar indicates that the Petitioner's 2020 article received one citation; whereas her 2024 articles have received no citations. Likewise, she reviewed two articles, only one of which was in her field, for the same journal in 2024. Evidence pertaining to the Petitioner's remuneration is for her current role since 2024, with additional information regarding her prior positions including paid internships, which she does not assert demonstrate significantly high remuneration. In turn, evidence relates to her prior employment at [redacted] is limited to February 2019 and July 2022, and her current role at [redacted] since

June 2024. However, as discussed above, the Petitioner's employment at [redacted] is unrelated to her area of extraordinary ability. Therefore, any acclaim she may have received by virtue of that employment and any salary or other remuneration she received for those unrelated services does not show how she is among the small percentage at the very top of the field of endeavor in which she claims to have extraordinary ability. *See* section 203(b)(1)(A)(ii) of the Act.

While there is no definitive time frame on what constitutes sustained national or international acclaim, given the record's evidence of limited and recent instances dated shortly before the Petitioner filed the Form I-140, it does not support the conclusion that the Petitioner has sustained national or international acclaim or a career of acclaimed work in the field. *See Sustain*, Black's Law Dictionary, *supra*; *and see generally* 6 *USCIS Policy Manual*, *supra*, at F.2(A)(1) (providing that there is no definitive time frame on what constitutes sustained acclaim). Further, the record does not support the conclusion that the evidence, pertaining to such limited instances, establishes the Petitioner's achievements have been recognized in the field of expertise, indicating that she is one of that small percentage who has risen to the very top of the field of endeavor. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)). For example, the record does not show how either having three articles written about the Petitioner, co-authoring three articles herself with low citation rates, or reviewing apparently only two articles during her career, shows she is one of that small percentage who has risen to the very top of the field of endeavor.

Because the Petitioner does not establish on appeal that the totality of the evidence provided shows her sustained national or international acclaim, that she is among the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation, the Petitioner is not eligible for the requested classification. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

## III. CONCLUSION

The evidence meets at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). However, the totality of the record does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. *See Kazarian*, 596 F.3d at 1119-20. U.S. Citizenship and Immigration Services 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). The Petitioner has not shown that the significance of her 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. The record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field and that she 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; *see also* 8 C.F.R. § 204.5(h)(2).

**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.