U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43258213

Date: JUL. 28, 2026

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

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

The Petitioner 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.

USCIS denied the petition, concluding that the record did not establish that the Petitioner received a major, internationally recognized award or met the requirements of at least three of the ten 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)(A) of the Act makes immigrant visas available to individuals with 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence 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).

II. ANALYSIS

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). USCIS concluded that the Petitioner satisfied the criterion related to performing a leading and critical role at 8 C.F.R. § 204.5(h)(3)(viii). However, USCIS further determined that the Petitioner did not meet the remaining three claimed evidentiary criteria associated with original contribution, high salary or remuneration, and comparable evidence to authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(v), (vi), (ix) and 8 C.F.R. § 204.5(h)(4). On appeal, the Petitioner asserts that he meets these criteria. Upon de novo review, we conclude that the Petitioner has not met the requisite number of evidentiary criteria and therefore is not eligible for classification as an individual of extraordinary ability.

A. Original Contributions

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for "evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." A petitioner may show that his or her contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia*, 4 F. Supp. 3d at 134-35. Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner presents two business-related contributions that he worked on under his employment with [redacted] USCIS determined that both projects constitute original business-related contributions; however, the record did not establish that his contributions were of major significance in the field. On appeal, the Petitioner contends that USCIS erred in its

reliance on *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) as he has provided "documented implementation with external recognition and measurable outcomes" which he asserts is sufficient to establish his products' major significance in the field pursuant to 8 C.F.R. § 204.5(h)(3)(v). In addition, he asserts USCIS erred in relying on *Strategati, LLC v. Sessions*, which "requires substantial influence beyond one's employers, clients, or customers." *Strategati, LLC v. Sessions*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at *6 (S.D. Cal. May 31, 2019). The Petitioner states that evidence of "independent academic citation, two independent industry awards, enterprise deployment at scale, Fortune 500 implementation, editorial coverage, and quantified client benefit" establishes the required influence. Upon review, we conclude that the evidence in the record does not establish his business-related contributions are of major significance in the field.

The Petitioner highlights independent media coverage about [redacted] including a *PRNewswire* feature that states the launch of this project "marked a significant advancement in financial technology." However, the byline of the article states that the article was "provided by [redacted] LLP," and therefore is not independent media coverage, but the Petitioner's employer promoting its own product. The Petitioner also submits an article from *ERP Today* which discusses the impact of [redacted] on one particular [redacted] client. On appeal, the Petitioner provides an opinion letter from P-I-. The author further discusses [redacted] impact on this same [redacted] client stating that the "transformation has spurred innovation in [the client's] product portfolio, positioning the company closer to its goal of becoming the leading dermatology firm globally." The record also contains letters of support such as one from J-M- who writes, "the development and implementation of [redacted] platforms have revolutionized the business planning areas for our business. . . ." Here, the evidence demonstrates a product whose contributions are limited to the Petitioner's employer and its clients and does not establish broader contributions that reach the level of major significance in the field. *Goncharov v. Allen*, No. 3:21-CV-1372-B, 2022 WL 17327304, at *5 (N.D. Tex. Nov. 29, 2022) (stating that "[c]ourts have routinely affirmed agency decisions that held § 204.5(h)(3)(v) 'requires substantial influence beyond one's employers, clients, or customers); *see also Amin v. Mayorkas*, 24 F.4th at 394; *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134 (D.D.C. 2013); *Strategati, LLC v. Sessions*, No. 3:18-CV-01200-H-AGS, 2019 WL 2330181, at *6 .

The Petitioner provides evidence of a second product he asserts he designed and developed under his employment at [redacted]. Here too, the evidence does not establish an original contribution of major significance in the field. The Petitioner contends that this product was deployed across 24 enterprise clients, to show its wide adoption. Additionally, he submits articles about [redacted] and its partnership with another company, [redacted] who awarded [redacted] with its 2020 Global Partner of the Year Award, in part, for its work on [redacted] Although this is evidence of the use and recognition of the product, this evidence further demonstrates an impact limited to the Petitioner's employer and its clients. *Id.* The Petitioner highlights a master's thesis titled '[redacted]' as "independent recognition" of the significance of [redacted] The abstract of the thesis concludes that "[w]ith respect to the provision of insights of Financial Forecasting solutions, we conclude that more research is needed to validate whether the use of [explainable artificial intelligence] techniques can significantly increase the quality of insights gained." Although the record indicates the author

[1] We also note that the acknowledgement section of the thesis, the author credits E-M- as "the initiator behind and project leader of [redacted]" and does not mention the Petitioner.

studied [redacted] as part of their internship, the thesis does not further the Petitioner's claim of significant contributions to the field. In a support letter written by E-M-, the author writes of [redacted] and [redacted] stating that "[b]oth of these solutions have substantially benefited our clients. . . ." As discussed above, the opinion letter written by P-I- further highlights that the Petitioner's contributions are limited to his employer and its clients. In his discussion of [redacted] the author states that this product helped meet clients' needs, "ultimately enhancing financial planning and decision-making for clients across various sectors." Therefore, we conclude that although the Petitioner's business contributions are original, they have not extended beyond his employer and its clients to be contributions of major significance in the field. *Id.*

B. High Salary

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 his or her compensation is high relative to others working in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner contends he is eligible for this criterion based on his salary of $248,700 as a "Specialist Leader" at [redacted] However, he did not provide the proper comparable salary information for his particular occupation. The Petitioner contends that the title of "Specialist Leader" is specific to his employer and that the duties are comparable to that of "Computer and Information Systems Managers." The evidence does not demonstrate that the two positions are comparable. For example, in the article "Computer and Information Systems Managers: Salary, career path, job outlook, education and more," the position duties, in part, include to "analyze [the] organization's computer needs and recommend possible upgrades for top executives to consider, " to "plan and direct the installation and maintenance of computer hardware and software," and to "ensure the security of an organization's network and electronic documents."[2] This position appears to be an internally facing managerial position dealing with the daily operations of an organization and its technological needs. In a letter of support from S-C-, the author describes the Petitioner's role as a "trusted advisor to consumer business executives in the strategy, planning, and implementation of AI/ML- integrated performance management technologies" and as a "a negotiator and deal maker with leading companies in the consumer and high-tech space. . . ." This letter indicates his position is outward facing and deals with the company's Financial Planning and Analysis teams and its customer solutions. Therefore, we conclude the positions are not comparable. 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. Dep't. 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.

[2] USCIS also highlights in its decision that the requirements for the position of "Specialist Leader" are different from that of a "Computer and Information Systems Manager." For example, the position description for "Specialist Leader" states that the position requires a master's degree with four years of experience or a bachelor's degree with six years of experience; while the submitted O*NET report for "Computer and Information Systems Managers" indicates that occupations that fall within this category mostly "require a four -year bachelor's degree, but some do not."

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).

On appeal, the Petitioner provides new evidence and contends that the strongest direct comparison to his position of "Specialist Leader" is "PwC Senior Manager" whose salary range is $124,000 to $280,000. While the Petitioner states that his salary of $248,700 is on the higher end of this range, it is still within the range and therefore does not demonstrate that his salary is substantially higher in relation to those within the field. *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) (upholding plaintiff did not present evidence establishing his salary was substantially higher than others working in the same field). Further, the job posting says that location is one of the factors in determining an employee's salary. Neither the Petitioner's location of [redacted] Texas nor [redacted] location of [redacted] New York as listed in the employment letter are specified as locations where this position will operate. Therefore, this too is not sufficiently comparable in order for us to determine that the Petitioner commands a high salary in relation to others in the field. In order to meet this criterion, the Petitioner must show that he receives a high salary in relation to others in the field. Because he did not provide evidence of comparable salaries, the Petitioner did not establish he commands a high salary in relation to others in his field.

III. CONCLUSION

The Petitioner claimed to satisfy four of the ten initial evidence requirements under 8 C.F.R. § 204.5(h)(3). However, we conclude that the Petitioner did not satisfy at least three of the four claimed criteria. Since the Petitioner has not fulfilled the initial evidentiary requirement of three and has not satisfied the threshold initial evidence requirements at 8 C.F.R. § 204.5(h)(3), we need not determine whether the Petitioner meets the final claimed evidentiary criteria related to comparable evidence of authorship of scholarly articles.[3] 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. Because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that he 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*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 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 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).

[3] We agree with the Petitioner that USCIS erred in its conclusion that "[t]he regulatory language allows for the consideration of comparable evidence only where the regulatory criteria do not apply to the beneficiary's occupation. Since the petitioner has claimed three of the ten criteria, the petitioner's claim of eligibility for the 'comparable evidence' regulation has not been established." Notably, a petitioner may make a comparable evidence claim with respect to any of the criteria at 8 C.F.R. § 204.5(h)(3) without first demonstrating why he or she cannot submit evidence satisfying at least three of the ten criteria. However, as explained above, we reserve our decision on his eligibility for this criterion.

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