U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39520211

Date: JULY 30, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a television editor and post-producer, 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).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner has sustained national or international acclaim and is one of that small percentage who has risen to the very top of his field. 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, petitioners can demonstrate international recognition of their accomplishments in the field through a one-time achievement (that is, a major, internationally recognized award). If petitioners do not submit this evidence, then they 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows petitioners to submit

comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to their 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

The record indicates the Petitioner has over 18 years of experience working in the television industry as an editor and post-producer in Venezuela and Argentina. The Petitioner claimed to meet six of the initial evidentiary criteria relating to lesser awards, published material, judging, display, leading or critical role, and high salary at 8 C.F.R. § 204.5(h)(3)(i), (iii), (iv), (vii), (viii), and (ix). SCOPS determined the Petitioner met four of these initial evidentiary criteria, but in a final merits determination concluded that the Petitioner did not establish extraordinary ability. On appeal, the Petitioner asserts SCOPS erred by analyzing the evidence individually rather than collectively and the totality of the evidence shows his extraordinary ability.

A. Evidentiary Criteria

Because the Petitioner has not shown that he 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). SCOPS determined the Petitioner met the four criteria relating to lesser awards, published material about the alien, judging the work of others in the same field, and display of the alien's work at artistic showcases at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iv), (vii). The record supports SCOPS' determinations on the criteria relating to lesser awards, judging, and display as it contains evidence that the Petitioner won three [redacted] awards, served as a judge for the 2023 and 2024 [redacted] awards and the 2024 [redacted] awards, and worked programs broadcast on [redacted] which received [redacted] awards and [redacted] nominations. For the reasons discussed below, the record does not support the Director's determinations that the Petitioner met the criterion for published material and did not meet the criteria for leading or critical role and high salary.

Published Material

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." Major media and major trade publications are assessed by their relative circulation, readership, or viewership. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner submitted copies of 14 articles about him from 10 online publications in 2023 and 2024. The Petitioner submitted information from Similar Web for seven of these publications showing that their monthly visits ranged between 46,799 and 3.682 million. The portion of the Similar Web printouts stating the country and global rankings of these publications is illegible. Without that or additional information regarding the publications' relative viewership, the record is insufficient to establish that the articles about the Petitioner were published in major media. Consequently, the Petitioner does not meet this criterion.

Leading or Critical Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires "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. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. 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. *Id.*

Although SCOPS determined [redacted] has a distinguished reputation, SCOPS concluded the Petitioner did not meet this criterion because the evidence did not show that the Petitioner's role for the channel was leading or critical. On appeal, the Petitioner asserts he submitted evidence showing he was "a crucial creative and technical architect of multiple award-winning television programs" for [redacted] De novo review of the relevant evidence establishes the Petitioner performed in a critical role for [redacted]

Letters from [redacted] leadership attest to the Petitioner's critical role. O-H,[1] Correspondent for [redacted] states the Petitioner is "a crucial, irreplaceable, and valuable piece in the post-production of [redacted] news content in Spanish." E-C-, Executive Producer at [redacted] praises the Petitioner's work on news programs that have been nominated for an Emmy Award and won [redacted] awards and describes the Petitioner as "an integral professional and a valuable asset to our structure at [redacted]" In an additional letter submitted in response to SCOPS' request for evidence (RFE), E-C- further described the Petitioner's "critical and indispensable role" and "exceptional work" on award winning news programs. A-M-, also an Executive Producer at [redacted] states the Petitioner is "an exceptional professional, playing a crucial role in our productions" and notes the Petitioner worked on two programs nominated for Emmy awards in 2019 and 2021-2022.

Media articles also discuss the Petitioner's receipt of [redacted] awards and [redacted] awards nominations for programs on [redacted] and further attest to his critical role at the channel. In addition, a letter from C-M-, Vice President of Productions at [redacted] attests to the Petitioner's critical and successful work at [redacted] and his receipt of three [redacted] awards while working at the channel. The preponderance of the evidence shows the Petitioner performed in a critical role as editor and post-producer of award-winning programs on [redacted] a distinguished news channel.

[1] We use initials to protect the privacy of the referenced individuals.

High Salary

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) requires "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. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. Comparative wage or remuneration data that is appropriate for the alien's occupation and location should be submitted to establish that a petitioner's compensation is high relative to others working in the field. *Id.*

SCOPS determined the Petitioner did not meet this criterion because he did not establish that the wage information he submitted provided an appropriate basis for comparison. On appeal, the Petitioner correctly asserts that the wage data he submitted from Salary.com, ZipRecruter, and the U.S. Bureau of Labor Statistics, which is specifically cited as a helpful source for wage comparison in the USCIS Policy Manual, shows he commanded a high salary.

The Petitioner submitted a Services Agreement between the Petitioner and [redacted] located in California, for the Petitioner to work as an editor and post-producer for three projects over the course of six months in 2025 and be compensated at a rate of $85 an hour. The Petitioner submitted a printout from Salary.com stating the highest post-production editor salary in the United States is $44 an hour and from ZipRecruiter stating the highest post-production editor salary in the United States is $42.07 an hour. The Petitioner also submitted a printout from the U.S. Bureau of Labor Statistics stating that the 90th percentile in wages for film and video editors is $74.27 an hour and $83.91 an hour for producers and directors. This evidence establishes that the Petitioner has commanded a high salary in relation to others in his field.

B. Final Merits Determination

The Petitioner has established that he meets the evidentiary criteria relating to lesser awards, judging, display, leading or critical role, and high salary at 8 C.F.R. § 204.5(h)(3)(i), (iv), (vii), (viii) and (ix). As the Petitioner submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, that he is among the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze petitioners' accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

SCOPS determined the Petitioner did not establish sustained national or international acclaim or that he is among the small percentage at the very top of his field. On appeal, the Petitioner asserts SCOPS failed to properly consider the totality of the evidence, mischaracterized critical documentation, and applied a flawed and unduly restrictive standard. The Petitioner's assertions do not establish his eligibility.

Although the record establishes the Petitioner performed in a critical role for [redacted] and won three [redacted] awards, the evidence does not establish that he achieved sustained national or international acclaim. The record does not establish how long the Petitioner worked at [redacted] such that his critical role at the channel would reflect sustained acclaim. While the record documents the awards and nominations the Petitioner received, it does not demonstrate that those awards and nominations garnered him sustained acclaim. The Petitioner submitted evidence that he was received [redacted] awards for the news program category in 2019 and 2020, and for best news program in 2022 as the editor and post-producer at [redacted] Content from the [redacted] website explains that [redacted] awards "recognize excellence in Latin and Spanish production and promote it worldwide" through awards in 80 categories and special awards. The record shows the Petitioner also received a 2019 [redacted] nomination for his work as an editor on this program. The record further shows the Petitioner was nominated for a 2021-2022 [redacted] award as editor of [redacted] Another program the Petitioner worked on for [redacted] won a 2022 [redacted] for [redacted] of [redacted] However, the receipt of four awards and two Emmy nominations between 2019 and 2022 does not reflect sustained acclaim over the course of the Petitioner's 18-year long career.

While the record establishes the Petitioner served as a judge for the [redacted] awards in 2023 and 2024 and for the [redacted] awards in 2024, this three-time service as a judge in two years also does not reflect sustained acclaim over the course of the Petitioner's 18-year long career. Similarly, while the record shows the Petitioner was featured in 14 articles, these publications do not show sustained acclaim as they were all published in 2023 and 2024. The Petitioner did not submit evidence that he received media coverage at any time over the remaining 16 years of his career. In addition, although the Services Agreement between the Petitioner and [redacted] shows he commanded a high salary, the Agreement is for six months in 2025 and does not show that he received a high salary or other remuneration at any other time over the course of his career. The evidence thus does not demonstrate that the Petitioner achieved sustained national or international acclaim.

The record also does not establish that the Petitioner is among the small percentage at the very top of his field. Although the Services Agreement between the Petitioner and [redacted] shows he commanded a high salary on one occasion, the Services Agreement does not offer the Petitioner full-time employment, a permanent position, or other engagement reflective of an individual at the very top of his field. The Petitioner also did not submit evidence that his achievements were widely covered by major media or otherwise documented in a manner commensurate with being at the very top of his field.

On appeal, the Petitioner asserts SCOPS failed to address or weigh his Emmy nominations and jury service, his [redacted] awards jury service, his [redacted] and testimonial letters from O-H, M-A-D-, and J-D-O-. As previously discussed, the record documents the Petitioner's two Emmy nominations in 2019 and 2021-2022. The Petitioner has not established, however, that two Emmy nominations, as opposed to Emmy awards, are indicative of being among the small percentage at the very top of his field. The record also documents the Petitioner's jury service for the [redacted] awards in 2023 and 2024 and for the [redacted] awards in 2024. Again, the record does not establish that serving as a judge three times is commensurate with the judging service of an

individual at the very top of the Petitioner's field. Although the Petitioner asserts that the [redacted] is "the most prestigious Argentine television award," the Petitioner did not submit any evidence to support this assertion or show that receipt of this award is reflective of being at the very top of the Petitioner's field.

Similarly, the letters from O-H-, M-A-D-, and J-D-O- do not establish that the Petitioner is among the small percentage at the very top of his field. As previously discussed, O-H-, Correspondent for [redacted] attests to the Petitioner's critical role for the channel, but does not compare the Petitioner to others or otherwise demonstrate that the Petitioner is at the very top of his field. M-A-D-, President of [redacted] attests to the Petitioner's critical roles at his company as a video editor, post-producer, and motion grapher. M-A-D- states the Petitioner increased the company's social media engagement by 25 percent and operated several digital campaigns which increased the company's return on investment by 12 percent. While he commends the Petitioner's "outstanding performance" and "expertise," he does not compare the Petitioner to others in his field or otherwise indicate that the Petitioner has garnered sustained national or international acclaim as an editor and post-producer at the very top of his field. J-D-O-, a composer, producer and sound engineer, praises the Petitioner's work as an editor, post-producer, and visual show creator for J-D-O-'s band's 2010 and 2014 tours and states his contributions were "fundamental to the success of our band's live shows." J-D-O- does not discuss in detail the Petitioner's other achievements or indicate that the Petitioner ranks among those at the very top of his field.

Similarly, letters from two of the Petitioner's other colleagues praise his work, but do not indicate that he has garnered sustained national or international acclaim as being at the very top of his field. E-P-, founder and CEO of [redacted] praises the Petitioner's work as production coordinator and post-producer at his agency and describes the Petitioner as an "outstanding professional," but does not address the Petitioner's ranking within his field. C-M-, Vice President of Productions at [redacted] attests to the Petitioner's "outstanding accomplishments and distinguished reputation in the field as an VideoEditor and post-producer." C-M- describes the Petitioner's critical and successful work at [redacted] and his receipt of three [redacted] awards, but does not indicate that the Petitioner is among the small percentage at the very top of his field.

While the letters submitted attest to the Petitioner's significant skills and accomplishments, they are insufficient to establish the Petitioner's sustained national or international acclaim and that he is among the small percentage at the very top of his field. *See Jafarov v. USCIS*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (S.D.N.Y. Jan. 5, 2024) (finding testimonial letters were insufficient to establish the plaintiff's relative status in the field and did not compare him to others).

When considered in the aggregate, the evidence shows the Petitioner is a highly skilled and award-winning editor and post-producer. The record does not, however, demonstrate that he achieved sustained national or international acclaim in his field. Articles about the Petitioner were published over the course of only two years and were not featured in major media. The Petitioner served as a judge of others in his field on just three occasions and commanded a high salary on just one occasion for part-time employment. When considered as a whole, the record is insufficient to establish that the Petitioner is among that small percentage at the very top of his field.

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing towards the top. The Petitioner has not shown that the significance and recognition of his work are indicative of sustained national or international acclaim as one of that small percentage who have risen to the very top of his field, as extraordinary ability is described at section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). The Petitioner is consequently ineligible for classification as an alien 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 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