U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37873319

Date: JUL. 31, 2025

Appeal of Service Center Operations Decision

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

The Petitioner, a movement specialist (fitness trainer), 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.

The Service Center Operations (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 it demonstrate that he met at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal. 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 extraordinary ability if:

- 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,
- the alien seeks to enter the United States to continue to work in the area of extraordinary ability; and
- 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. CRITERIA

Because the Petitioner has not indicated or established 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 satisfied two of the ten criteria, relating to published material and performance in a leading or critical role. On appeal, the Petitioner asserts he meets the evidentiary criteria relating to membership in associations, original contributions of major significance in the field, authorship of scholarly articles, and commercial successes in the performing arts.[1] Upon review, we conclude the Petitioner has not established that he meets at least three of the initial evidentiary criteria.[2]

A. Membership

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for "documentation of the alien's membership in associations in the field for which classification is sought." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained

[1] Since the Petitioner's appeal does not address SCOPS' conclusions regarding any of the other criteria under 8 C.F.R. § 204.5(h)(3), we consider those issues to be waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012).

[2] While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

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

The Petitioner maintains he meets this criterion based on his membership with the [redacted] with the status of "Personal Trainer, Pilates Teacher – Matwork, Master Trainer – Pilates Teacher, EQF Level 4." He asserts the '[redacted] Master Trainer status demands extensive professional practice, proven expertise, exceptional achievements and a sustained commitment to the fitness and physical activity sector" and "that only those with a proven record of excellence and ongoing professional development can achieve this distinguished recognition." The Petitioner provided a printout from [redacted] website which shows the following:

> To hold [redacted] Master Trainer status you must:
> - Be a current member of [redacted] in your chosen discipline
> - Make a one-time, non-refundable payment of €50
> - Update in full your [redacted] Member Profile
> - Update your Lifelong Learning Record (LLP Dashboard with your last 3 years continued development activities (this should demonstrate a clear strategy of career development)
>
> and complete the detailed application form providing the following evidence:
> - Reference letters from clients/employers
> - Demonstrate 3000 hours of professional practice over a minimum of 3 years through:
>   - A personal statement of who you are, why you think should be considered for the [redacted] Master Trainer status and how you uphold the [redacted] Code of Practice
>   - An updated detailed Resume/Curriculum Vitae detailing your work experience in the discipline
>
> Once your application and payment are received the submission will be checked by the '[redacted] . . .
>
> . . . .
>
> **Decisions on applications are at the discretion of the International Registrar and EuropeActive Accreditation Panel.*

(emphasis in the original). The Petitioner also provided information regarding the members of the [redacted].

Here, the Petitioner has not shown the requirements for a master trainer with [redacted] reflect outstanding achievements. Specifically, the Petitioner did not establish that accumulating hours of professional practice and obtaining reference letters from clients/employers represent outstanding achievements.[3] While the Petitioner asserts master trainer status require "exceptional achievements"

[3] *See generally 6 USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that relevant factors that may lead to a conclusion that the person's membership in the association(s) was not based on outstanding achievements in the field include, but are

and "a proven track record of excellence and ongoing professional development," he does not show that these signify outstanding achievements consistent with this regulatory criterion.

In addition, the Petitioner highlights his membership with the [redacted] in support of this criterion. While the Petitioner provided a printout of [redacted] website, along with a copy of the application form and information about its president, the record lacks evidence demonstrating membership requirements to show that it requires outstanding achievements of their members, as judged by recognized national or international experts.

For the foregoing reasons, evidence does not demonstrate that the associations in the field to which the Petitioner belongs require outstanding achievements of their members as judged by recognized experts. We will therefore affirm SCOPS' decision regarding this evidentiary criterion.

B. 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 their 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, supra, F.2(B)(1).

In support, the Petitioner references evidence previously submitted with the initial petition and in response to SCOPS' request for evidence (RFE), including: screenshots from his YouTube channel showing the number of subscribers, views, and comments; media articles citing his YouTube workouts; information regarding his university-level lecture; a transcript of his guest appearance on a radio broadcast; information about his business and his various fitness programs; and several letters of recommendation from experts in the field. SCOPS concluded that the evidence did not demonstrate a major significance of his original contributions, and we agree.

While we acknowledge the Petitioner's original contributions in the field, he has not established the level of significance in the field required by this criterion. The Petitioner submitted letters from various

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not limited to, instances where the person's membership was based solely on the following factors (by themselves or in the aggregate): a level of education or years of experience in a particular field; the payment of a fee or by subscribing to an association's publications; and a requirement, compulsory or otherwise, for employment in certain occupations, as commonly seen with union membership or guild affiliation for actors); *see also Soni v. United States*, No. CV 11-2431, 2016 WL 4154137, at *4 (upholding a certification merely required individuals to pay a fee and undergo an application process, possess education and experience, and take and pass a multiple-choice examination, did not reflect outstanding achievements).

individuals in the fitness community, but the letters do not explain how the Petitioner's work has been widely implemented in the field or establish that the Petitioner's work has had a demonstrable impact on the field as a whole commensurate with an original contribution of major significance. Rather, the letters limit the relevance of the Petitioner's contributions to his YouTube viewers and clients.[4] For instance, the letter from A-I-, an aerial artist, discusses how the Petitioner helped her recover from a shoulder injury and states that his studio "is not just a place for physical recovery but also a hub for aerialists to share experience and learn from each other." Also, the letter from A-I-, a master of sports in aerobatic gymnastics, talks about the Petitioner's studio and mentions that he was mentored by the Petitioner, "which significantly transformed" the way he teaches. Furthermore, the letter from A-Z-, a coach, states that the Petitioner's "innovative methods and commitment to education have greatly enhanced the quality of [her] training programs and have made a significant impact on [her] clients' progress and safety." Here, the letters briefly indicate the importance of the Petitioner's contributions to his viewers and clients without showing the impact or influence on the overall field in a major way.

Letters from experts in the field explaining the nature and significance of the person's contribution may provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance. *See generally 6 USCIS Policy Manual*, *supra*, at F.2(B)(1). Submitted letters should specifically describe the person's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise. *Id.* In this case, the letters lack specific, detailed information explaining how the Petitioner has made original contributions of major significance in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The US. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

In addition, we acknowledge the Petitioner's YouTube channel, media articles citing his YouTube workouts, university-level lecture, radio guest appearance, studio, and workout programs. However, the evidence does not demonstrate that his work as a movement specialist has remarkably impacted or influenced the field. For instance, while the Petitioner's YouTube channel has over 157,000 million subscribers and 8 million views, the record does not include documentation showing how this has affected his field. Moreover, while the submitted evidence reflects the field's interest in his work, the record lacks sufficient evidence to support his claim that his "innovative training model" has influenced the fitness industry in a substantial way beyond his YouTube viewers and clients. That is, the record does not contain evidence demonstrating that his training model has been replicated or is impacting the field more broadly. Further, we recognize the personal accomplishments the Petitioner has achieved in opening his own studio, implementing his own teaching methods, running his own YouTube channel, and conducting a series of lectures at a university, but he has not demonstrated that his contributions rise to the level of major significance in the overall field. Having a diverse skill set is not a contribution of major significance in-and-of itself. Rather, the record must be supported by evidence that the Petitioner has already used those unique skills to impact the field at a significant level.

For the reasons discussed, considered both individually and collectively, the Petitioner has not established that he has made original contributions of major significance in his field.

[4] While we discuss a sampling of the letters of support, we have reviewed and considered each one.

C. Scholarly Articles

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." USCIS first determines whether the person has authored scholarly articles in the field. As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. Scholarly articles are also generally peer reviewed by other experts in the field of specialization. In general, it should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article. *See generally 6 USCIS Policy Manual*, *supra*, F.2(B)(1). For other fields, a scholarly article should be written for learned persons in that field. Learned persons include all persons having profound knowledge gained by study. *Id.*

Second, USCIS determines whether the publication qualifies as a professional publication, major trade publication, or major media publication. In evaluating whether a submitted publication is a professional publication or major media, relevant factors include the intended audience (for professional journals) and the circulation or readership relative to other media in the field (for major media). *Id.*

On appeal, the Petitioner asserts that his YouTube channel meets this standard because "[h]is videos serve as scholarly works that combine his expertise as a movement training and biomechanics specialist, providing in-depth, evidence-based education to a global audience." In support of his videos being scholarly articles, he asserts that his videos (1) reflect original research and experimentation, (2) have been authored by an expert, (3) have been cited in professional and major media publications, (4) include scholarly features, such as detailed explanations and visual aids, and (5) targets audience of learned persons. While we acknowledge the Petitioner' assertions on appeal, he has not established that the content he created on YouTube constitutes a "scholarly article" or that its intended audience was "learned persons" in the field. For instance, the record does not demonstrate that his content has been peer reviewed by other experts in the field. Moreover, while the Petitioner provides screenshots of fitness trainers' comments on his channel, it does not establish that his channel was intended for learned persons in his field as these few comments were specifically selected.

Accordingly, the Petitioner has not established that he meets the requirements of this criterion.

D. Leading or Critical Role

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. Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. 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. *Id.* Merriam-Webster's online

dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Id.* SCOPS determined the Petitioner submitted sufficient evidence to satisfy this criterion. However, we disagree and withdraw the SCOPS' conclusion.

The Petitioner claimed in response to the RFE that he "performed in leading and critical roles as the founder of the innovative [redacted] and creator of the highly popular [redacted] YouTube channel, both of which have distinguished reputations in the fitness and movement community." In support, he submitted printouts from his website and Instagram page, along with a copy of his lease agreement, interview transcript from a show on YouTube, and letters of recommendation. However, the evidence does not sufficiently demonstrate that [redacted] or [redacted] has a distinguished reputation. For instance, the record does not include any media coverage for either [redacted] or [redacted] to show their eminence, distinction, or excellence. Moreover, the letters of recommendation do not mention that the studio or channel has a distinguished reputation. And while the Petitioner submitted information about [redacted], it did not include the size or scale of its customer base. Without more, the evidence is insufficient to establish that the companies have a distinguished reputation as required by the regulation at 8 C.F.R. § 204.5(h)(3)(viii). Therefore, the Petitioner has not established that he meets this criterion.

E. Commercial Success

The regulation at 8 C.F.R. § 204.5(h)(3)(x) calls for "evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales." The evidence must show that the volume of sales or box office receipts reflects the alien's commercial success in the performing arts relative to others involved in similar pursuits. Recording and releasing musical compilations or performing in theatrical, motion picture, or television productions would be insufficient, in and of itself, to satisfy this criterion. *Id.*

The Petitioner contends "YouTube videos represent modern and significant form of performing arts." He maintains he meets this criterion based upon evidence that his YouTube channel [redacted] has "built a dedicated community of over 150,000 subscribers and accumulated more than 8 million views." However, the Petitioner has not established that the number of subscribers or views of his videos is evidence of commercial success similar to box office receipts, or compact disk or video sales, since this evidence does not demonstrate the monetary value of these subscribers and views or otherwise set a basis for determining commercial success. The Petitioner also asserts that he "has effectively monetized his YouTube channel through advertising revenue, affiliate marketing, and sponsorship deals" but he does not submit any documentary evidence of monetary compensation to show that he is commercially successful. Accordingly, he has not established that he satisfies this criterion.

III. CONCLUSION

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 they are 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 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).

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 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.