U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42739078

Date: JUN. 03, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a radiation oncologist and clinical research specialist, 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.

Service Center Operations (SCOPS) denied the petition, concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that she 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 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

The Petitioner is a radiation oncologist specializing in stereotactic body radiation therapy and clinical oncologic research. Because the Petitioner has not indicated or established that she received a major, internationally recognized award, she must establish at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner initially claimed eight criteria relating to memberships, published materials, judging, contributions, scholarly articles, display, leading or critical role, and salary. SCOPS determined the Petitioner satisfied only one of the criteria relating to scholarly articles. On appeal, the Petitioner continues to assert she meets the evidentiary criteria relating to memberships, published materials, judging, contributions, display, leading or critical role, and salary. For the reasons discussed below, the Petitioner does not demonstrate she meets at least three categories of evidence. [1]

A. Memberships

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] 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 claims eligibility for this criterion based on her membership with the European Society for Medical Oncology (ESMO) and the American Society for Radiation Oncology (ASTRO). The record includes evidence that the Petitioner has been a member of ESMO since December 2014. In addition, the Petitioner provided a printout from ESMO's website, which states that "[t]he ESMO Membership Committee is responsible for defining the criteria for the various categories of membership and the process to be applied for admitting members to the society." The printout also lists the committee members and shows the main tasks and responsibilities of the ESMO Membership Committee. Regarding her ASTRO membership, the Petitioner submitted an undated email confirming her membership with ASTRO, along with a printout from ASTRO's website. The printout states that "ASTRO's membership includes radiation oncologists, medical physicists, dosimetrists, radiation therapists, radiation oncology nurses and nurse practitioners, biologists, physician assistants, practice administrators and industry representatives." However, the Petitioner does not submit any materials from ESMO or ASTRO describing their membership requirements. Thus, the Petitioner has not established that these organizations require outstanding achievements of their members, as judged by recognized national or international experts.

Accordingly, the Petitioner does not show that she satisfies this criterion.

B. Published Materials

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." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.* The published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work). Professional or major trade publications may be identified by their intended audience, while other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *See generally 6 USCIS Policy Manual*, at F.2(B)(1).

The Petitioner submitted several publications from various media outlets in Russia. However, only one of the publications is about the Petitioner and her work. The other publications discuss the opening ceremony of a radio therapy unit and briefly mention the Petitioner, but they are not about her. For instance, the article from *Khalmg Unn*, dated [redacted] 2016, states, [redacted]" While the article from *Khalmg Unn*, dated [redacted] 2016, is about the Petitioner, she has not demonstrated that the publication qualifies as a professional or major trade publication or other major media. That is, the Petitioner has not submitted any evidence of the circulation, readership, or viewership of the publication. *See Noroozi v. Napolitano*, 905 F. Supp. 2d 535, 545 (S.D.N.Y. 2012) (pointing out the petitioner "did nothing to establish that the publications in which these articles appeared had the requisite level of circulation").

Given the above, the Petitioner has not established that she meets this criterion.

C. Judging

The regulation at 8 C.F.R. § 204.5(h)(3)(iv) calls for "evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought." The alien must show that they not only have been invited to participate as a judge of the work of others in their field, but also that they have actually participated in such judging. *See generally* 6 *USCIS Policy Manual* F.2(B)(1). Examples of judging may include peer review for a scholarly journal, conference, or government research funding program or serving as a member of a Ph.D. dissertation committee. *Id.*

The Petitioner asserts she meets this criterion due to her participation in the Multidisciplinary Clinical Board on the Management of Skin and Mucosal Tumors. On appeal, she explains that "tumor boards and multidisciplinary boards are the principal institutional mechanism for peer evaluation, where specialists review and assess diagnostic workups and treatment recommendations prepared by other physicians and provide determinations that affect whether proposed approaches are accepted, modified, or rejected." In support, the Petitioner submitted a letter from the chief executive officer (CEO) of [redacted] The letter states that the Petitioner "was an active and respected participant in interdisciplinary tumor boards, contributing her expert radiation oncology perspective alongside dermatologists, oncologists, and cryosurgeons."

This regulatory criterion requires the Petitioner to show that she has not only been invited to judge the work of others, but also that she actually participated in the judging of the work of others in the same or allied field of specialization. *Id.* The Petitioner, however, does not demonstrate how the evidence shows that she participated as a judge of the work of others. While the CEO states the Petitioner was "contributing her expert radiation oncology perspective," she does not further elaborate or explain how this demonstrates participation as a judge of the work of others.

Without evidence reflecting her participation as a judge of the work of others, including specific, detailed information, the Petitioner has not sufficiently demonstrated that she meets this criterion.

D. 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 F.2(B)(1).

The Petitioner submitted three letters of recommendation in support of her assertion that she has made original scientific contributions in the field of radiation oncology. However, none of the submitted letters identify any specific original contribution by the Petitioner or explains how it is of major significance in the field. For instance, one letter states the Petitioner's "contributions were particularly critical in cases involving rare or recurrent dermatologic malignancies, or when evaluating treatment strategies in patient with significant comorbidities." Another letter states the Petitioner "contributed to the development and refinement of our stereotactic radiotherapy protocols, which have since been presented at national and international forums." But these letters do not detail the Petitioner's contributions or explain how they have purportedly transformed her field.

We also reviewed the expert opinion letter from a postdoctoral scholar at [redacted] The author states that the Petitioner's "work demonstrates exceptionally high scientific rigor, originality, and clinical relevance." The author further states that the Petitioner's "work addresses a global, high-impact medical challenge – improving outcomes for functionally inoperable patients with early-stage lung cancer" and "her study offers measurable and clinically actionable improvements in radiotherapy for" non-small cell lung cancer patients. The author concludes that "the totality of her contributions forms a genuine advancement in the practice of modern radiation oncology" and that she has "the capacity to meaningfully advance the fields of stereotactic radiotherapy, lung cancer treatment, and precision radiation oncology." While the author speaks to the Petitioner's scientific and clinical work in stereotactic radiotherapy, the author does not provide examples of the depth or breadth of her works' impact. That is, the author does not show how the Petitioner's work has been widely implemented or has otherwise impacted the field of radiation or fields directly related to stereotactic radiotherapy methodologies.

Detailed 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. *Id.* Here, the Petitioner's letters do not contain specific, detailed information explaining the unusual influence or high impact her work has had on the overall field to establish that it has been of major significance.

In addition, the record includes the Petitioner's peer-reviewed publication entitled "[redacted] and a screenshot of a YouTube video regarding the "[redacted] presented by the Petitioner's colleague, Dr. A-V-N-. However, this evidence also does not detail the Petitioner's contributions or explain how they have purportedly transformed her field. Moreover, the Petitioner does not provide any citation evidence to establish the major significance of her contributions. Published research that has provoked widespread commentary on its importance from others working in the field and documentation that it has been highly cited relative to others' work in that field may be probative of the significance of the person's contributions in the field of endeavor. *Id.*

Without more probative and informative evidence, the Petitioner has not shown that she has made original contributions of major significance in the field.

E. Display

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* F.2(B)(1). 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 Petitioner maintains eligibility for this criterion based on her research and clinical data on stereotactic body radiation therapy (SBRT) methodology being presented at the XXII Russian Oncological Congress in 2018. While the record includes documentation on SBRT, there is no evidence that the Petitioner's work was presented at the XXII Russian Oncological Congress. The Petitioner provided a screenshot of a YouTube video about the '[redacted]' presented by Dr. A-V-N-. However, there is no mention of the XXII Russian Oncological Congress or the Petitioner on the screenshot of the video. It is the Petitioner's burden to establish her eligibility by preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. at 375-76.

Accordingly, the Petitioner did not show that she meets this criterion.

F. 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 their compensation is high relative to others working in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1).

The Petitioner provided a copy of her 2021 tax return showing that she earned 2,383,028.34 rubles as a radiation oncologist in Moscow. The record includes a document entitled "Salaries in medicine," which states that the average monthly salaries for doctors has increased in 2022 and 2023, but it does not provide the salaries for doctors in Moscow. The Petitioner also submitted a printout from https://finder.work, which shows that the average salary for an oncologist in Moscow is 125,873 rubles and the median salary is 135,000 rubles. However, regarding "average" or "median" earnings comparison, this criterion requires the Petitioner to offer evidence showing that she has commanded a "high salary or other significantly high remuneration" relative to others in the field and not just a salary that is above average in her field. 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. 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 has not established that she has commanded a high salary or other significantly high remuneration for services in relation to others in the field.

Accordingly, she has not established that she fulfills this criterion.

III. CONCLUSION

The Petitioner claimed to satisfy eight of the ten initial evidence requirements under 8 C.F.R. § 204.5(h)(3). However, we conclude that the Petitioner did not satisfy six of the eight criteria. Since the Petitioner cannot fulfill the initial evidentiary requirement of three, we need not address the remaining criterion regarding leading or critical role and we reserve it. *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). Likewise, because the Petitioner has not satisfied the threshold initial evidence requirements at 8 C.F.R. § 204.5(h)(3), we need not determine whether the Petitioner has sustained national or international acclaim and is one of 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. *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 also decline to reach and hereby reserve any final merits determination in this matter. *See Bagamasbad* at 429 U.S. at 25.

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