U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42217743

Date: JUNE 11, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an educational planning and evaluation expert, requests classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203 (b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish the Petitioner received a one-time achievement of a major, internationally recognized award, or, in the alternative, that the Petitioner satisfied at least three of the 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

An alien is eligible for the extraordinary ability classification if he or she has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and his or her achievements have been recognized in the field through extensive documentation; he or she seeks to enter the United States to continue work in the area of extraordinary ability; and his or her entry will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

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 a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then the petitioner must provide documentation that meets at least three of the ten

categories listed at 8 C.F.R. § 204.5(h)(3)(i) to (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 the petitioner 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, 1119-20 (9th Cir. 2010); *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 Petitioner does not claim a one-time achievement, such as a major, internationally recognized award. So, she must provide evidence of meeting at least three of the evidentiary criteria contained at 8 C.F.R. § 203.5(h)(3)(i)-(x). The Petitioner initially claimed eligibility for the classification based on the following criteria:

- receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor (8 C.F.R. § 204.5(h)(3)(i));
- published material about her in professional or major trade publications or other major media, relating her 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. (8 C.F.R. § 204.5(h)(3)(iii)).
- 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 (8 C.F.R. § 204.5(h)(3)(iv);
- evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. (8 C.F.R. § 204.5(h)(3)(v)).
- authorship of scholarly articles in the field, in professional or major trade publications or other major media (8 C.F.R. § 204.5(h)(3)(vi)); and
- performance in a leading or critical role for organizations or establishments that have a distinguished reputation (8 C.F.R. § 204.5(h)(3)(viii)).

SCOPS issued a request for evidence (RFE) to the Petitioner to provide her with the opportunity to submit additional documentation because the initial record did not demonstrate by a preponderance of the evidence that she met any of the criteria she claimed.

The Petitioner timely responded to the RFE. SCOPS subsequently issued its decision and concluded the Petitioner met the following criteria:

- 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 (8 C.F.R. § 204.5(h)(3)(iv)); and
- authorship of scholarly articles in the field, in professional or major trade publications or other major media (8 C.F.R. § 204.5(h)(3)(vi)).

SCOPS concluded the Petitioner did not meet the criteria contained at 8 C.F.R. § 204.5(h)(3)(i), (iii), (v) and (viii) concerning receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor, published material about her in professional or major trade publications or other major media relating to her work in the field for which classification is sought, evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field, and performance in a leading or critical role for organizations or establishments that have a distinguished reputation. And, in the final merit's determination, SCOPS determined the Petitioner did not demonstrate that she is one of that small percentage who have sustained national or international acclaim to have risen to the top of her field of endeavor.

On appeal, the Petitioner abandoned her claim to the criteria contained at 8 § 204.5(h)(3)(i) concerning receipt of lesser nationally or internationally recognized prizes or awards for excellence in her field of endeavor. But the Petitioner renewed her claim to the remaining criteria SCOPS concluded she did not meet contained at 8 C.F.R. § 204.5(h)(3)(iii), (v), and (viii).

Upon our de novo review, we conclude like SCOPS that the Petitioner meets the criterion contained at 8 C.F.R. § 204.5(h)(3)(iv) and (vi). And we further conclude like SCOPS that the Petitioner did not demonstrate eligibility under the remaining criteria she claimed. So, for the below reasons, we will dismiss the Petitioner's appeal.

A. "Published 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." 8 C.F.R. § 204.5(h)(3)(iii).

To fulfill this criterion, the Petitioner must demonstrate there is published material about him or her in professional or major trade publications or other major media, as well as the title, date, and author of the material. The published material should be about the alien and his or her work, rather than the alien's employer and its work. Professional or major trade publications may be identified by their intended audience, whereas 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* F.2(B)(1), https://www.uscis.gov/policy-manual.

The Petitioner submitted a copy of an advertising feature appearing in the [redacted] 2022, edition of The Daily Nation discussing the targets specified in a new plan promulgated by the [redacted] accompanied by information about The Daily Nation. She also submitted an opinion piece appearing in The Daily Nation ePaper on an unknown date describing the targets in [redacted] strategic plan. The record also contains an online article appearing in FinTech News Africa Digest News on [redacted] 2024, about the launch/publication of [redacted] and its significance for Kenyan citizens. And the Petitioner submitted screenshots from the American Evaluation Association (AEA) webpage containing links to case-documents the Petitioner claims to have co-authored.

USCIS determines whether the published material was related to the person and the person's specific work in the field for which classification is sought. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The published material should be about the person, relating to the person's work in the

field, and not just about the person's employer and the employer's work or about another organization and that organization's work. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Marketing materials created for the purpose of selling the person's products or promoting the person's services are not generally considered to be published material about the person (this includes seemingly objective content about the person in major print publications that the person or the person's employer paid for). *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The feature published in the [redacted] 2022, edition of The Daily Nation is marked as an "advertising feature." And the opinion piece appearing in The Daily Nation ePaper on an unknown date states it is "sponsored by the [redacted] So, both materials appear marketing or promotional in nature. Marketing materials are not generally considered to be published material about a person. *See Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *4 (N.D. Tex. June 17, 2025) (upholding plaintiff's submission of promotional material for an industry did not meet this criterion).

But, even if we were to set aside the promotional nature of these materials, we would still conclude the materials appearing in The Daily Nation, its ePaper, and the materials appearing in FinTech News Africa Digest News do not support the Petitioner's claim to the criterion. The Petitioner contends that she had a role in the development of the new plan and targets for [redacted] and [redacted] But the articles do not mention the Petitioner's name in connection with the new plans and targets discussed. *See Kinuthia v. Rosenberg*, No. CV 17-10255-LTS, 2018 WL 1243955, at *5 (D. Mass. Mar. 8, 2018), *aff'd sub nom.*, *Kinuthia v. Velarde*, No. 18-1244, 2019 WL 11671989 (1st Cir. July 3, 2019), *cert. denied*, 140 S. Ct. 2643, 206 L. Ed. 2d 714 (2020) (finding it is not enough that the material merely relates to the applicant's work).

And we do not consider screenshots from the AEA webpage containing links to case-documents the Petitioner claims to have co-authored as evidence of published material about the Petitioner. USCIS determines whether the publication qualifies as a professional publication, major trade publication, or major media publication. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media). *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1). The record does not contain any evidence that would establish that the AEA webpage has circulation, readership, viewership, or what its intended audience is such that its status as a professional or trade publication or other major media is ascertainable.

So, we conclude the Petitioner's submitted evidence does not support her claim of eligibility under this criterion.

B. "Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v).

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 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.
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1)(criterion five).

Analysis under this criterion focuses on whether the person's original work constitutes major, significant contributions in the field. *See generally* 6 *USCIS Policy Manual*, *supra* at F.2(B)(1). USCIS determines whether the person has made original contributions in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). And USCIS determines whether the original contributions are of major significance in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). It must be objectively demonstrated that the field considers the work to be majorly significant. *See Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *20 (D. Neb. Sept. 12, 2025) (upholding that it must be objectively demonstrated that the field considers the work to be majorly significant).

The Petitioner contended that the criterion does not readily apply to her and that she sought to submit comparable evidence to meet the criterion. The regulation contained at 8 C.F.R. § 204.5(h)(3) permits Petitioners to submit comparable evidence to document a claim to a criterion or criteria that do not readily apply to their field or endeavor. However, it is the Petitioner's responsibility to explain why the criterion is not readily applicable to his or her field or endeavor. In the instant case, the Petitioner's general assertion that the criterion does not apply is unsupported by material, relevant, or probative evidence in the record. So, we will evaluate the Petitioner's evidence under the requirements of the criterion.

The Petitioner claimed eligibility under this criterion on the basis of her "[exclusive appointment] to represent the [redacted] to train advocates, at the Governance, Justice, and Rule of Law (GJRoL) Sector Working Group" which developed [redacted] (2023-2027). She states that she conceptualized, authored, and successfully negotiated the inclusion of professional legal education reforms that were formally adopted into both the GJRoL Sector Plan and the Kenya Fourth Medium-Term Plan. She states that the reforms she worked on shaped the education and professional preparation of more than 9,500 legal practitioners in Kenya.

She also states she "spearheaded the institutionalization of Planning, Monitoring, and Evaluation (PM&E) processes at the [redacted] that influenced governance and professional legal education at the [redacted] The Petitioner further claims original contributions for designing an evaluation framework for internship awards at [redacted] and co-authoring a professional practice note.

The Petitioner submitted evidence describing the plans, evaluations, standards, or initiatives in her field to demonstrate her eligibility under this criterion. She also submitted several testimonial letters and letters of support. We conclude that the evidence the Petitioner submitted into the record does not support the significance of the work the Petitioner claims to have accomplished in her field.

The evidence in the record describing the plans, evaluations, standards, or initiatives in her field the Petitioner claims as her original contributions does not assign any level of their significance to the Petitioner's field. And the Petitioner submitted testimonial letters and letters of support that can support a petitioner's claim of original contributions of major significance provided they contain details about how the petitioner's original work has been significant in his or her field. The contents of the testimonial letters or advisory opinions in the record do not contain sufficient detail to preponderantly demonstrate that the Petitioner's original contributions are of major significance. In general, the Petitioner submitted testimonial letters expressing an effusive appreciation of the Petitioner's competent undertaking of her job duties. And the testimonial letters or advisory opinions do not establish how the Petitioner's performance of her job duties, even when successful, well received, and competent are original contributions to her field and that the level of their significance separate and apart from the venue where they were performed or made. Moreover, detailed letters from experts in the field explaining the nature and significance of the person's contribution may provide valuable context when the record includes documentation corroborating the claimed significance. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The representations in the testimonial letters are not corroborated with material, relevant, or probative evidence elsewhere in the record. So, we conclude the Petitioner has not demonstrated eligibility for the claimed criterion.

C. "Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii).

To qualify under this criterion, a petitioner must show that he or she played a leading or critical role for an organization or establishment, and that the organization or establishment has a distinguished reputation. When evaluating whether a role is leading, we look at whether the evidence establishes that the person is or was a leader within the organization, or a department or division thereof. A title, with appropriate matching duties, can help to establish that a role is or was leading. For a critical role, we look at whether the evidence establishes that the person 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. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1)(criterion eight).

To support that an organization has a distinguished reputation, the relative size or longevity of an organization is considered together with other relevant information, such as the scale of its customer base or relevant media coverage. "Merriam-Webster's online dictionary defines 'distinguished' as 'marked by eminence, distinction, or excellence' or 'befitting an eminent person.'" *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner claimed that she served in critical roles at the [redacted] She outlined that she was the lead technical expert in the strategic plan and represented the [redacted] in the [redacted] as part of a large working group. Specifically, she was also a secretary to

the [redacted] Performance Contracting Committee and helped to advance quality management at the [redacted] through ISO 9001:2015 certification.

But the evidence in the record does not adequately identify the distinguished reputation of the department or working group in which the Petitioner performed the duties she describes as critical. It is not clear from the evidence in the record that her function is critical because the description of the position lacks context. The Petitioner emphasizes that her position at the [redacted] reported directly to an overarching leader in the [redacted] but simply reporting to a leading role directly does not automatically render a role critical.

In essence, the evidence consisted only of identification of her job title with the entities she claimed had distinguished reputation. The Petitioner did not adequately identify how her individual roles fit within the organizational structure or hierarchy of the individual entities demonstrated that role was leading or critical in the first place. And the leading or critical nature of the Petitioner's roles is not supported by the other evidence she submitted into the record because it does not sufficiently demonstrate that she was a leader within the organization, or a department of division thereof, or that she contributed to the entities in a manner that is of significant importance to the outcome of the entities' activities. Additionally, the record did not provide sufficient material, relevant, or probative evidence to describe the reputation of the organizations or establishments the Petitioner identified other than uncorroborated claims in recommendation letters. And the evidence in the record did not preponderantly demonstrate the organizational complexity of the entities identified by the Petitioner so that we could examine if they were "organizations or establishments" as required by the criteria. So, we conclude the Petitioner did not meet 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 she 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*, --- 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).

Regardless, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (stating that extraordinary ability is such an elite level of accomplishment); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087 at *1 (stating that EB-1 visa are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, the Petitioner has not shown that the significance

of her work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. *See* Section 203(b)(1)(A) of the Act. Whilst the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that she is among the small percentage at the top of her field. *See* 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above-stated reasons, with each considered as an independent and alternate basis for the decision.

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.