U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 38157800

Date: JUNE 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks to classify himself as "an alien of extraordinary ability in the field of [b]usiness." *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.

SCOPS denied the petition, concluding that the record does not establish the Petitioner received a one-time achievement of a major, internationally recognized award or, in the alternative, that it satisfies 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

Section 203(b)(1) 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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the 10 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).

Additionally, if the criteria at 8 C.F.R. § 204.5(h)(3) "do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility." 8 C.F.R. § 204.5(h)(4).

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).

## II. ANALYSIS

The Petitioner describes himself as "an expert in the field of [b]usiness, especially regarding [m]anagement and [i]nnovations related to [redacted] methodology, with over 20 years of experience in the area of extraordinary ability." As noted above, SCOPS concluded the record does not establish the Petitioner received a one-time achievement of a major, internationally recognized award and that, in the alternative, the record does not satisfy at least three of the 10 initial evidentiary criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). Specifically, SCOPS found that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (vi); however, SCOPS determined that the record does not satisfy the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(iii), (v), (viii)-(ix). On appeal, the Petitioner reasserts that, in addition to satisfying the criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (vi), the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(iii), (v), (viii)-(ix). He further generally states that the record contains "enough evidence to warrant a positive final merits determination," referencing *Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

We do not disturb SCOPS' determination that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (vi). Furthermore, for the reasons discussed below, we conclude that the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(viii). Therefore, the record satisfies at least three of the 10 initial evidentiary criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). Because the record satisfies at least three initial evidentiary criteria, we reserve our opinion regarding whether it satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(iii), (v), and (ix). *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision). However, for the reasons discussed below, the record does not show sustained national or international acclaim or that the Petitioner is among the small percentage

at the top of the field of endeavor. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

A. Leading or Critical Role

The criterion at 8 C.F.R. § 204.5(h)(3)(viii) requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." A leading role may be demonstrated by evidence that establishes the individual is or was a leader within an organization or establishment, or a division or department thereof. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

SCOPS acknowledged that the record contains letters of support, information regarding the Petitioner's prior employer, [redacted] and related documents. SCOPS recognized that [redacted] "has a distinguished reputation," as required in part by the criterion at 8 C.F.R. § 204.5(h)(3)(viii). SCOPS also observed that the record "shows that the [P]etitioner worked on various projects in different capacities for the company." However, SCOPS determined that the record "is insufficient to demonstrate that the [P]etitioner's role was leading or critical." On appeal, the Petitioner reasserts that his "position entailed mentoring and evaluating the work of others at [redacted] which exemplifies an essential and critical role," he includes a copy of an organizational chart with position titles in the record, and he summarizes specific internal company award-winning projects completed by departments or divisions he led.

The record in this matter, including the organizational chart, description of the petitioner's duties, letters of support, and documentation of specific internal company award-winning projects the Petitioner led establishes that he performed in a leading role for a division or department of [redacted] Furthermore, as SCOPS determined, the record establishes that [redacted] has a distinguished reputation. Therefore, the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(viii), and we withdraw SCOPS' conclusion to the contrary.

B. Final Merits Analysis

As addressed above, the record satisfies at least three of the 10 initial evidentiary criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). However, the totality of the record does not show sustained national or international acclaim and demonstrate that the Petitioner is among the small percentage at the very top of the field of endeavor. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

Black's Law Dictionary defines "sustain" as "to support or maintain, especially over a long period of time" or "to persist in making (an effort) over a long period of time." *Sustain*, Black's Law Dictionary (11th ed. 2019).

The record does not establish that the Petitioner has received national or international acclaim, nor does it establish that he maintained such acclaim over a long period of time. For example, the internal company awards that the Petitioner references in the context of the criterion at 8 C.F.R. § 204.5(h)(3)(i) are dated 2007-09. The record does not establish that the internal company awards brought him national or international acclaim beyond notoriety within his employing company and,

even to the extent that it did, the record does not establish that the Petitioner sustained such acclaim beyond the years of 2007-09, a brief period that ended more than a decade ago. Similarly, the articles the Petitioner references in the context of the criterion at 8 C.F.R. § 204.5(h)(3)(iii) are dated 2021, 2023, and 2024, and the articles the Petitioner submitted for consideration under the criterion at 8 C.F.R. § 204.5(h)(3)(vi) are all dated 2024. Without more, the articles alone do not establish that the Petitioner received national or international acclaim, consistent with the small percentage of individuals at the very top of a field of endeavor, by virtue of their publication. Moreover, the articles are clustered in a limited, recent period, rather than indicative of maintaining any degree of acclaim over a long period of time. Likewise, the Petitioner submits paystubs dated April, May, and June 2019 in the context of the criterion at 8 C.F.R. § 204.5(h)(3)(ix). However, the record does not establish the Petitioner earned national or international acclaim by virtue of this income, nor does income received during a three-month period demonstrate that he maintained any acclaim over a long period of time.

We acknowledge that some evidence in the record spans relatively long periods of time. For example, the record establishes the Petitioner mentored or evaluated the work of others, in the context of the criterion at 8 C.F.R. § 204.5(h)(3)(iv), primarily in 2009-10, although he also did so in 2008, 2011-13, 2015, and 2024. The Petitioner also generally references his employment history at [redacted] spanning approximately 20 years, in the context of the criteria at 8 C.F.R. §§ 204.5(h)(3)(v) and (viii). The record indicates that the Petitioner's employment at [redacted] benefitted him; his employer; and its business partners, clients, and customers. However, the record does not establish how his work for [redacted] or his periodic evaluation of others' work, resulted in national or international acclaim for him. Because the record does not establish how the Petitioner's employment at [redacted] or his evaluation of others' work garnered him national or international acclaim, the duration of his employment at [redacted] and his periodic evaluations do not indicate he sustained any degree of acclaim during the respective periods.

The record does not establish when—and, thus, whether—the Petitioner became a member of the [redacted] and the [redacted] ([redacted]), which he asserts are qualifying associations contemplated by the criterion at 8 C.F.R. § 204.5(h)(3)(ii). Even to the extent that the Petitioner may have become a member of those associations, the record does not establish that the Petitioner maintained such membership. However, we acknowledge that the record establishes that his employer, [redacted] congratulated him for receiving [redacted] certifications in 2008 and 2010, and that [redacted] certified that he "successfully attended the [redacted] Program, from [redacted] lasting 80 hours, from August 21, 2023, to October 30, 2023." But the record does not establish that the Petitioner's purported membership in [redacted] or [redacted] or his receipt of certain [redacted] certifications, correspond to the receipt of national or international acclaim as a result, regardless of the period of time to which they relate.

Because the Petitioner does not establish on appeal that the totality of the material provided shows both sustained national or international acclaim and demonstrates that the Petitioner is among the small percentage at the very top of the field of endeavor, the Petitioner is not eligible for the requested classification. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

## III. CONCLUSION

The evidence meets at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). However, the totality of the record does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. *See Kazarian*, 596 F.3d at 1119-20. U.S. Citizenship and Immigration Services has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. The record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field and that he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act; *see also* 8 C.F.R. § 204.5(h)(2).

**ORDER:** The appeal is dismissed.