U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43120164

Date: JUNE 25, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a systems development manager, seeks first preference immigrant 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). 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.

USCIS denied the petition, concluding that the record did not establish that the Petitioner qualifies as an individual of extraordinary ability either as the recipient of a one-time achievement that is a major, internationally recognized award, or as someone who initially satisfied at least three of the ten required regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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 find that the Petitioner did not meet the criterion at 8 C.F.R. § 204.5(h)(3)(ix) and we will therefore withdraw USCIS's favorable determination on that issue pursuant to our discussion below. Further, we will dismiss the appeal because the Petitioner did not establish that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii), which pertains to leading or critical role and in an organization with a distinguished reputation.

The Petitioner also maintains on appeal that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(v), which relates to original contributions of major significance.[1] However, because the Petitioner has not demonstrated that he meets three of the four evidentiary criteria claimed on appeal, he would not

[1] The Petitioner initially claimed that he satisfied the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii) – (vi), (viii), and (ix). However, on appeal he does not dispute the adverse findings concerning the criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii), and (vi) and states that he "expressly agrees with USCIS's conclusions regarding" these criteria. Since the Petitioner does not further pursue the three listed criteria on appeal, we need not address them. *See Rizk v. Holder*, 629 F.3d 1083, 1091 n.3 (9th Cir. 2011) (finding that issues not raised in a brief are deemed waived).

establish that he met three out of ten criteria even if we considered his claims regarding the criterion at 8 C.F.R. § 204.5(h)(3)(v). As such, we need not determine whether he meets the requirements of this criterion, nor do we need to provide the type of final merits determination referenced in *Kazarian,* 596 F.3d at 1119-20. Accordingly, we will reserve these issues. *See INS v. Bagamasbad,* 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

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 international recognition of a beneficiary's achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then it must provide sufficient qualifying documentation demonstrating that the beneficiary meets at least three of the ten criteria 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).

Where a petitioner demonstrates that the beneficiary 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 Petitioner specializes in computer and information systems and claims to have extraordinary ability in information systems management. The Petitioner has enjoyed a career of over 20 years as an IT professional and highlights his employment at [redacted] where he claims to have held a "pivotal role" as developer of [redacted] a healthcare management system which he describes as a

contributor to healthcare safety and efficiency and which he deems "a benchmark" in the healthcare management industry.

The Petitioner does not claim or submit evidence to show that he received a major, internationally recognized award. He must therefore provide evidence showing that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i) – (x). The Petitioner claims that he meets the elements of the four criteria summarized below:

- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance;
- (viii), Performance in a leading or critical role for distinguished organizations or establishments; and
- (ix), High salary or significantly high remuneration.

USCIS determined that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (ix).

A. Criterion at 8 C.F.R. § 204.5(h)(3)(ix)

As a preliminary matter, we find that the record does not support USCIS's favorable determination concerning the criterion at 8 C.F.R. § 204.5(h)(3)(ix), which requires evidence that the Petitioner has commanded a high salary or other significantly high remuneration relative to others in the field.

The Petitioner relied on the "taxable income in recurring remuneration" in his tax returns from 2018-2020 as the primary support for claiming that he meets the requirements of this criterion. He claimed that the documents demonstrate that he earned BRL 292,334.70, BRL 989,321.31, and BRL 290,180.31 in 2020, 2019, and 2018, respectively. The Petitioner compared these figures to those in various salary surveys that provided average annual salaries as well as salary scales for systems development managers in Brazil.[2]

The record, however, does not establish that the Petitioner's work as a systems development manager was the only source of his claimed total income. For instance, the Petitioner claimed that his taxable income in 2020 was over BRL 292,334.70, but his 2020 tax return shows that only BRL 196,343.32, or a monthly total of BRL 16,361.92, represents income he earned from his employment at [redacted] while additional sums – BRL 11,078.69 and 87,210.98 – represent the Petitioner's Christmas bonus and funds derived from his ownership interest in [redacted].[3] Although the Petitioner claims even higher earnings in 2019, his tax return for that year similarly shows that only a portion of the total amount – BRL 119,936 of the claimed BRL 989,321.31 – represent his annual employment income, while BRL 8356.65 and BRL 580,053 were earned as a Christmas bonus and derived as non-taxable income from ownership interest in [redacted] respectively. Meanwhile, the

[2] We note that providing only average salaries would not offer a clear picture of the range of salaries earned by others similarly employed in Brazil.

[3] The Petitioner's tax return includes a section titled "Exempt and Non-Taxable Income" with subsection 9 listing income derived from "Profits and dividends received" and subsection 13 listing "Income from being a partner or owner of a micro or small business." The record also contains the "12th Amendment to the Articles of Association of [redacted]" which lists the Petitioner as owner of 1% of the company's shares and entitles him to partake in the company's profits, as indicated in the tax return.

salary survey the Petitioner provided for a systems development manager in [redacted], Brazil shows a monthly salary ranging from BRL 19,655 to 36,924.[4] Therefore, even if we were to consider the Petitioner's Christmas bonuses in 2020 and 2019 as part of his salary as a systems development manager, such figures – BRL 17,285 monthly in 2020 and BRL 10,691 in 2019 – would not demonstrate that his salary is high relative to others in his field.

Likewise, the Petitioner did not provide evidence demonstrating that the "other" compensation he received from his ownership interest in [redacted] was "significantly high" relative to others in his field. *See Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *7 (N.D. Tex. Sept. 2, 2022) (upholding that the petitioner did not provide information about other compensation or renumeration, such as living allowances, stock options, incentives, or bonuses, in relation to what others have earned).

Accordingly, we will withdraw USCIS's favorable determination concerning the high salary criterion.

B. Critical or Leading Role in a Distinguished Organization

Notwithstanding our withdrawal of USCIS's favorable determination regarding the criterion at 8 C.F.R. § 204.5(h)(3)(ix), the record supports USCIS's adverse finding concerning the criterion at 8 C.F.R. § 204.5(h)(3)(viii), which requires evidence that the Petitioner performed in a leading or critical role for an organization with a distinguished reputation.

In response to USCIS's request for evidence (RFE), the Petitioner focused primarily on his employment at [redacted] where he led in the development of a proprietary customer relations management (CRM) framework and which was later purchased by [redacted] He stated that he "was responsible for technological architecture and structural systems, playing a decisive role in operational performance and contract expansion." The Petitioner provided several recommendation letters from former superiors and colleagues at [redacted] discussing his essential role in creating and developing [redacted] proprietary CRM. The recommendation letters point out that the CRM continues to exist and is used by [redacted] even after [redacted] purchase of [redacted] the CRM's original owner. We find that the Petitioner has provided sufficient evidence showing that he held a leading or critical role in an organization.

We now turn to the remaining element of this criterion, which requires a showing that the Petitioner's role was not only leading or critical, but that it was held in an organization with a distinguished reputation. Meriam-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). Further, the relative size or longevity of an organization or establishment is not in and of itself a determining factor but is considered together with other information to determine whether a distinguished reputation exists. *Id.*

In the RFE response, the Petitioner claimed that evidence of [redacted] distinguished reputation was apparent by its receipt of "the [redacted] in 2015, 2016,

[4] The survey document indicates that the figures represent salary ranges that were updated as of June 2025. The Petitioner did not provide surveys reflecting salary data corresponding to the years of his tax returns.

and 2018." The Petitioner claimed that this recognition is exclusive to "suppliers with a measurable impact on process improvement, innovation, and strategic support to the multinational pharmaceutical industry." However, the Petitioner's use of the term "award" to describe [redacted] recognition of [redacted] appears to be inaccurate since the three certificates, all containing identical wording, make no reference to the recognition as being an award; rather, the certificates state that [redacted] was being congratulated "for its participation in the [] [redacted] in recognition of its performance throughout the year." The record contains no evidence establishing [redacted] criteria for such recognition.

And although the Petitioner provided an article published in *medium.com* mentioning "[redacted]" the article is at odds with the wording on the recognition certificate. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (requiring a petitioner to resolve inconsistencies with independent, objective evidence). Moreover, the Petitioner has not established that this level of recognition is indicative of [redacted] distinguished reputation. *See Branski v. Seng*, No. 24-CV-360, 2024 WL 4678939, at *8 (E.D. Wis. Nov. 4, 2024) (finding that successful businesses can be expected to have satisfied customers and the positive esteem of peers, but it takes more to have a distinguished reputation).

The Petitioner further asserted that [redacted] "prestige was later confirmed by its acquisition by the [redacted] for R$ 38 million" and provided the purchase agreement documenting the transaction. On appeal, the Petitioner asserts that "distinction may be demonstrated through market validation, strategic acquisition, operational scale, and functional centrality" and he once again highlights [redacted] acquisition "by a relevant industry group." However, while the scale of a company's customer base can be a relevant factor for evaluating an organization's reputation, the Petitioner did not establish that "strategic acquisition" and "functional centrality" are similarly relevant in demonstrating [redacted] distinguished reputation. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

In light of the above, the Petitioner has not established that the organization where he held a leading or critical role had a distinguished reputation, and therefore he has not satisfied the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

C. Reserved Issues

As previously noted, the Petitioner also asserts that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(v), which relates to original contributions of major significance in the field. However, given the deficiencies described above, we need not determine whether the Petitioner meets the requirements of this criterion, and we will reserve this issue. *See INS v. Bagamasbad,* 429 U.S. at 25-26.

III. CONCLUSION

The Petitioner has not shown that he met either a one-time award, or three of ten initial criteria. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields. USCIS 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. Moreover, 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 have risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

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.