U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41539123

Date: MAR. 13, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner is a digital media marketing strategist who 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.

SCOPS denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Petitioner had received a major, internationally recognized award, nor did she demonstrate that she warranted a favorable finding in the final merits analysis. The matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The alien enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The alien's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. The term "extraordinary ability" refers only to those in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). *See also* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739 (stating: "In short, admission under this category is to be reserved for that small percentage of individuals who have risen to the very top of their field of endeavor.").

The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-step analysis. In the first step, a petitioner can demonstrate international recognition of his or her 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 he or she must provide sufficient qualifying documentation that 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 meets these initial evidence requirements, we then move to the second step to 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, 1121 (9th Cir. 2010) (discussing a two-step 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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022).

II. ANALYSIS

The Petitioner is a digital media marketing strategist who founded and was the chief executive officer of her own marketing agency.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). Before SCOPS, the Petitioner claimed she met seven of the regulatory criteria. SCOPS decided that the Petitioner satisfied four of the criteria relating to membership, published material, judging, and the authorship of scholarly articles but that she had not satisfied the criteria associated with prizes or awards, performing in a leading or critical role, or a high salary or remuneration. On appeal, the Petitioner maintains that she meets the previously claimed evidentiary criteria, but as she has satisfied at least three of the requirements it is unnecessary that we address that further. After reviewing all the evidence in the record, we conclude she has not demonstrated eligibility for this highly restrictive immigrant category.

1. "Documentation of the alien's 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).

While we normally find it unnecessary to address individual criteria where a petitioner has already satisfied at least three, the Petitioner devoted a significant portion of her appeal brief to the awards criterion, and to properly set the table for the final merits analysis, we make an exception here.

Although the Petitioner continues to claim her evidence satisfies the regulatory requirements for awards, we conclude her evidence continues to fall short of those requirements. For the [redacted], the Petitioner offered no physical evidence that she received any award from the issuing entity, even though it appears the organization issues statuettes. Instead, she offered a reference letter from [redacted] reflecting that in 2023 she received an award in the category for the "Best Use of Customer Service in Social Media." The letter listed certain areas of focus for this category.

The Petitioner claims the [redacted] is a prestigious, internationally recognized event and offered media coverage of the 2024 [redacted] event. She also submitted internet coverage for a separate award relating to the [redacted] but that is not the award she received, and she did not explain the relevance of the entity's magazine award to her claims. Notably absent from the record is any coverage relating to the award the Petitioner received to demonstrate her "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). We generally do not impute the reputation of the issuing entity or the event to an individual award without an indication it is a top prize or honor from a nationally or internationally recognized competition or institution. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual (noting that examples of qualifying awards may include, but are not limited to "certain awards" from well-known national institutions or well-known professional associations).

And for the [redacted] SCOPS noted an article from 2023—that the Petitioner submitted to show the award was nationally or internationally recognized—mentioned that she was "the best SMM specialist according to the [redacted]" But SCOPS also noted she did not receive this award until much later in December of 2024. On appeal, the Petitioner attempts to dismiss this issue as journalistic shorthand indicating journalists "often write: "considered one of the top . . .," "recognized as leading . . .," known as . . .," or "regarded as the best . . . ." She surmises that "[t]hese descriptions do not imply official award receipt. They express professional reputation."

But the Petitioner's attempts to minimize this issue or brush it away are belied by the content within the article. The Petitioner makes no claim that she ever earned a [redacted] prior to December 27, 2024, even though the article in question was dated August 26, 2023. The Petitioner offers no explanation for an article that included very specific information about an award she had neither received nor applied for.

Here, the Petitioner has introduced a conflict in the record, and she has not acted to resolve that issue. Similar to the long-standing precedent in *Matter of Ho*, 19 I&N Dec. 582, 591–92 (BIA 1988), *Matter of O-M-O-*, 28 I&N Dec. 191, 197–98 (BIA 2021) affirms that where the record contains material inconsistencies a petitioner bears the burden of resolving these discrepancies with independent and objective evidence. *See also Matter of Dobrotvorskii*, 29 I&N Dec. 211, 215 (BIA 2025) (concluding that unreconciled inconsistencies in the record undermine the filing party's eligibility). Under these precedent decisions, such an unresolved conflict hinders the Petitioner's ability to establish the true aspects her claims surrounding this award, rendering the evidence insufficient to meet the preponderance of the evidence standard. While the above conflict amounts to an inconsistency and will be adverse to the Petitioner's claims, it also has the potential to undermine her other claims and evidence. *Matter of Ho*, 19 I&N Dec. at 591 (concluding that "[d]oubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition).

The Petitioner's claims and evidence under this criterion remain inadequate to satisfy the regulatory requirements.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence we will evaluate whether she has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim and that she 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. In a final merits determination, we analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if her successes are sufficient to demonstrate that she has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119–20). *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(2) (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the required high level of expertise of the immigrant classification). In this matter, we determine that the Petitioner has not documented her eligibility.

The two-step adjudication process is an interpretive rule that does not violate the Administrative Procedure Act, nor is it a legislative rule. *Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *12 (D. Neb. Sept. 12, 2025); *Etsy, Inc. v. Jaddou*, No. 4:22CV3022, 2023 WL 3689555, at *23 (D. Neb. May 25, 2023) (citing *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 96 (2015); *Bharathm Ram Nagaiah, v. USCIS*, No. CV 23-2077-KSM, 2025 WL 1508028, at *14 (E.D. Pa. May 27, 2025). This approach is rooted in an exhaustive historical review of the congressional record, the governing statutory language, and the comprehensive regulatory scheme intended to ensure only those at the very top of their field receive this classification. To date, no other federal court has offered an alternative framework that is similarly grounded in such a thorough analysis of the legislative and agency history.

The Petitioner alleges that within the final merits analysis, SCOPS "applies an improperly heightened standard to the step-two evaluation, demanding evidence akin to global celebrity status, worldwide fame, or recognition comparable to major international awards." After reviewing the denial decision, we do not agree that SCOPS applied any standard other than the preponderance of the evidence to the Petitioner's case.

Prizes or awards. The record does not show that the two awards the Petitioner received are of such stature that they indicate she is among the small percentage at the very top of her field. The evidence reflects recognition from relatively limited or specialized programs, with no persuasive showing that these awards are highly selective, broadly known, or widely regarded in the field as premier national or international honors for excellence. There is little indication that they are comparable to major prizes conferred by well-established national institutions or leading professional organizations, or that they attract a substantial pool of top competitors. Accordingly, while the awards may demonstrate a degree of professional success and positive reputation, they do not, even in the aggregate, rise to the level of acclaim contemplated for this classification or establish that the Petitioner is at the pinnacle of her field.

Memberships. The Petitioner claims membership in two organizations that she asserts aid her in qualifying for this benefit, the [redacted] SCOPS concluded that only the [redacted] was enough to meet the criterion's requirements. Beyond the regulatory requirements, general membership in these groups reflects the

Petitioner is a professional in the marketing field, but she has not attained a higher level of status within the organizations such as being part of an expert council, a member of the board, etc. Her general membership in these organizations does not seem to set her apart from the larger field or reflect that she has risen to the very top of the field.

Published material about the Petitioner. SCOPS discussed the four articles, only three of which qualified as published material under 8 C.F.R. § 204.5(h)(3)(iii) concluding they did not measure up to the necessary standard in the final merits determination. We note one article is the discredited piece that in 2023 discussed an award the Petitioner did not receive until approximately 16 months later. On appeal the Petitioner only discusses how her evidence satisfied the requirements in step one, but she does not detail how the published material about her shows that she has risen to the top of her field.

Even considering the three creditable articles, the published material the Petitioner submits does not demonstrate the level of recognition indicative of someone at the very top of the field. One article consists largely of questions about a marketing conference the Petitioner attended and it appears in a business-to-business outlet aimed at a specialized readership, reflecting routine professional visibility rather than broad acclaim for her individual achievements. The other two pieces are brief, surface-level interviews posing largely generic questions, with limited depth of analysis or discussion of her specific contributions. While one of those two appears in a major media magazine and the other in a lesser-known but notable business magazine, neither is framed as an in-depth profile of a leading figure in the field or as coverage of groundbreaking work. Taken together, this material shows that the Petitioner has attained a measure of professional recognition and media interest, but it does not rise to the kind of sustained, high-impact coverage that would signify she is among the small percentage at the very top of her field.

Judging. With regard to the Petitioner's judging experience, we agree with SCOPS's findings that although the Petitioner meets the plain language requirements of this criterion, the evidence does not demonstrate that she is eligible for this immigrant category. Serving as a juror for the [redacted] conference in Kazakhstan and on the [redacted] indicates that she is trusted within certain professional circles. But there is insufficient evidence that these roles are reserved for a small percentage of leading figures in the field or are widely regarded as prestigious, highly selective appointments on a national or international scale. Accordingly, while her judging experience demonstrates professional engagement and recognition, it does not—even when viewed in the aggregate with the rest of the record—establish that she has achieved the high level of acclaim and prominence in the field contemplated by this immigrant category.

Authorship of scholarly work. Even though SCOPS' only mention of journal ranking was within their final merits analysis and not under the criterion, in the appeal, the Petitioner argues that the regulations did not require her to publish in top-tier journals. While that statement may be relevant to step one under the criterion, that is one of the elements USCIS policy specifically highlights under the final merits determination. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(2).

The Petitioner did not offer any material relating to her authored scholarly articles beyond the articles themselves. For the two articles she submitted related to the journal Science Time, the record does not contain supporting material about the journal. Although the Petitioner provided a document from the [redacted] that listed Science Time as a name of a

"magazine," that material did not contain any additional information about the publication that might reflect it is a highly-ranked journal. We observe the same shortcoming for the single article related to the second journal where she published, the Current Research Scientific Journal. We note that authorship and publication do not automatically place one at the top of the field. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(2) (providing that publications should be evaluated to determine whether they indicate that an alien might meet this highly restrictive classification's requirements).

In evaluating a petitioner's authorship of scholarly articles at the final merits stage, the type of evidence that can show they are among the small percentage at the very top of the field includes documentation that their work appears in particularly highly ranked or otherwise distinguished journals, or conference proceedings, relative to other outlets in the discipline. *See generally* 6 *USCIS Policy Manual*, *supra*, F.2(B)(2). That may be demonstrated, for example, by impact factor data or other objective measures of journal standing, especially where a petitioner is the sole author, senior author, or primary contributor. *Id.* In addition, persuasive comparative citation data may indicate top-of-field status. *Id.* For instance, evidence that the total citation rate to their body of work, including a high h-index relative to others in the same field and at a similar career stage, can place them well above most peers. When supported by reliable, field-specific benchmarks, such publication venue quality and citation metrics may together reflect that the Petitioner's scholarly contributions have achieved a level of influence and recognition consistent with being among the small percentage at the top of the field. *Id.*

Here, the Petitioner did not demonstrate how her limited publication record is consistent with having a career of acclaimed work and sustained national or international acclaim. The Petitioner did not submit evidence showing the significance of her authorship or how her publications compare to others who are viewed to be at the very top of the field. *See* 8 C.F.R. § 204.5(h)(2) and 56 Fed. Reg. at 30704.

Leading or critical role. SCOPS determined the single entity for which the Petitioner claimed she performed in a leading or critical role did not enjoy a distinguished reputation. On appeal, the Petitioner only disagrees with that outcome, but she does not identify what, if any, evidence SCOPS might have disregarded or how her previous claims demonstrated eligibility. Instead, she only provides a bulleted list of elements she asserted before SCOPS that were already considered.

At the final merits stage, evidence of leading or critical roles is most probative where it shows that the person has consistently occupied positions of genuine decision-making authority or indispensable responsibility in organizations that are widely recognized for their excellence in the field. This typically involves roles where the person directs or substantially shapes key strategies, programs, or outcomes; where the success of significant projects or business lines depends heavily on the person's contributions; and where there is credible, detailed corroboration from employers or other knowledgeable parties about the importance and impact of the person's work. In addition, the organizations (or divisions) themselves should have a recognized standing—such as a strong reputation in the industry, a large or high-value client or user base, notable achievements, or meaningful positive media or industry recognition—so that serving in a leading or critical capacity for them reflects more than routine managerial or specialist responsibilities. When both elements are present—high-impact roles and genuinely distinguished organizations—they more strongly support a finding that the person is among the small percentage at the very top of the field.

The Petitioner's single instance of acclaim in this area, that was inadequate to satisfy the criterion's requirements, is not indicative of or consistent with sustained national acclaim or a level of expertise representing that she is one of that small percentage who have risen to the very top of her field.

Compensation. The Petitioner claims that SCOPS erred by comparing her salary to those of multinational corporations or conglomerates. A review of SCOPS' denial does not support her allegation as they directly discussed the evidence she provided for the record and decided "the relevant salary data for comparison is [] a senior-level President and CEO . . . ." SCOPS then noted that the Petitioner's highest earnings year was well below the average of such positions. The Petitioner has not explained how she has demonstrated sustained national or international acclaim or that her compensatory achievements are such that they are commensurate with those who are part of the small fraction of individuals at the very top of her field of endeavor.

Final merits summary. Even affording the Petitioner the benefit of the doubt that certain items may satisfy the plain language of some criteria, the record as a whole does not illustrate a strong or persuasive presentation under any final merits category. The claimed awards are not shown to be highly selective or widely recognized; the memberships do not reflect exclusive admission based on outstanding achievements; the published material and judging evidence indicate only routine professional visibility; there is no record of influential scholarly articles or significant citation impact; the roles described do not demonstrate sustained leadership or indispensable responsibility in organizations of clearly distinguished reputation; and the compensation evidence does not convincingly place the Petitioner among the top of the pay scale for comparable positions. Viewed in the aggregate, this limited and modest evidentiary record fails to establish that the Petitioner has achieved the sustained national or international acclaim—or is among the small percentage at the very top of the field—required for this most elite of immigrant classifications. In other words, we are not persuaded that her achievements spanning from 2019 through 2025 are the types of sustained acclaim that are required by the statute and regulation.

III. CONCLUSION

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. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

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.