U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41729254

Date: MAR. 13, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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(b0(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 the record did not establish that the Petitioner qualifies as an alien of extraordinary ability either as the recipient of a major, internationally recognized award, or that the Petitioner meets at least three of the ten initial 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 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 aliens 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 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 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).

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 alien 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 works as a first assistant surgeon at [redacted] in [redacted] and plans to continue working in the surgical assistant field.

A. Evidentiary Criteria

Because the Petitioner has not indicated or demonstrated that he has received a major, internationally recognized award, he must instead satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(ii)(i)-(x). The Petitioner claimed to meet four criteria: membership in associations requiring outstanding achievements (ii); original contributions of major significance in the field (v); authorship of scholarly articles in the field (vi); and leading or critical role for organizations with a distinguished reputation (viii). SCOPS evaluated the claims the Petitioner made in the initial petition and in response to the request for evidence (RFE) and concluded the Petitioner did not meet any of the four evidentiary criteria that he claimed.

Based on our de novo review, we conclude the Petitioner has not demonstrated eligibility for this highly restrictive immigrant classification for the reasons we will discuss below.

1. Membership in Associations

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 outstanding achievements in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

Relevant factors that may lead to a conclusion that the person's membership in the association(s) was not based on outstanding achievements in the field include, but are not limited to, instances where the person's membership was based solely on the following factors (by themselves or in the aggregate):

- A level of education or years of experience in a particular field;
- The payment of a fee or by subscribing to an association's publications; and
- A requirement, compulsory or otherwise, for employment in certain occupations, as commonly seen with union membership or guild affiliation for actors.

Id.

The Petitioner claimed eligibility for this criterion based on his membership in the [redacted] and the [redacted] He asserted that the [redacted] is an "esteemed organization known for its high standards and selective membership criteria," and that the organization requires "individuals to demonstrate exceptional academic performance, leadership skills, and active involvement in initiatives aimed at improving healthcare education and practice." In support, the Petitioner submitted certificates of participation and letters of support. Specifically, he provided a letter from the head of [redacted] thanking the Petitioner and his team for their hard work and contributions. The letter also describes the [redacted] as "the pride of [redacted] and the engine in the university's bicycle."

The Petitioner further submitted a letter from a former head of the [redacted] in which the author states that the [redacted] is a "prominent international organization committed to fostering excellence in medical education and professional development." The author also indicates that "[m]embership at the advanced level achieved by [the Petitioner] is awarded only to those who have demonstrated outstanding accomplishments in the field, as evaluated by a panel of recognized experts" and earned through "a rigorous evaluation process." The author also explains that the process includes "a review by senior members and experts in the medical field, ensuring that only individuals with a proven track record of outstanding accomplishments could hold such positions." Additionally, the letter states that the Petitioner has made "exceptional contributions" to [redacted] including facilitating training programs and leading the organization's initiatives.

SCOPS determined that the [redacted] operates within the broader general medicine field rather than the Petitioner's field of surgical association. SCOPS further found that the record lacked "objective documentary evidence" demonstrating that membership in these associations requires outstanding achievements as judged by recognized national or international experts in their disciplines or fields.

On appeal, the Petitioner asserts that SCOPS' decision "reflects an unduly restrictive interpretation of the regulation and a failure to evaluate the evidence in its proper factual and organizational context." He also contends that the regulation does not require an association to be "limited to a single occupational title, nor does it require that the association mirror elite scientific academies. Rather, the inquiry focuses on whether the petitioner's membership or standing within an association is merit-based and subject to evaluate judgement." The Petitioner clarifies that the [redacted] is "engaged in medical education, scientific development, and professional leadership activities relevant to the medical field, including surgical disciplines."

However, the record does not contain sufficient corroborating evidence to establish that the Petitioner's membership in [redacted] and [redacted] satisfy all elements of this criterion. As previously noted, to meet this criterion, the Petitioner must demonstrate that the [redacted] and [redacted] require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Here, the record does not contain bylaws, membership criteria, or other official organizational documentation describing the standards for obtaining membership in the associations. Although the Petitioner submitted letters from current and former [redacted] leadership, describing the associations and the Petitioner's involvement, letters alone are insufficient to demonstrate the association's requirement criteria. The record does not contain sufficient corroborating evidence to establish that membership in these associations requires outstanding achievements.

Accordingly, the evidence does not demonstrate that the associations in the field to which the Petitioner belongs require outstanding achievements of their members as judged by recognized national or international experts in their disciplines or fields.

2. Leading or Critical Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." The role may be shown to be leading or critical for a division or department of an organization or establishment, or for the organization or establishment overall. Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. For a critical role, evidence should show that the alien 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. In determining whether the organization or establishment, or a department or division thereof, has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner claimed eligibility for this criterion based on his participation as member of [redacted] and referred to the same documents he previously submitted to demonstrate the membership criterion. He further stated that his "involvement highlights his ability to lead and impact the broader medical community." The Petitioner also claimed that he has been serving as a first assistant surgeon at [redacted] in [redacted] and has provided "essential support in complex surgical procedures" and directly "enhanced patient outcomes" by contributing to "operational improvements."

In support, he submitted his surgical assistant license from the State of Illinois, an American Board of Surgical Assistants (ABSA) national certificate, and recommendation letters from professionals in his field attesting to his leadership and pivotal role in surgical success. He also submitted a certificate from Intuitive indicating that he has completed one of their robotic-assisted surgery training courses titled [redacted] He stated that his certification demonstrates his "expertise in employing advanced technologies to improve surgical precision." Additionally, he asserted that his

contributions were "critical to surgical operations and patient care quality," including improving operating room efficiencies and implementing robotic-assisted surgical techniques.

The recommendation letters highlight the Petitioner's professional contributions. In particular, G-G- states that Petitioner's work "has made significant contributions to the field of healthcare, and that his work is "critical to the efficiency and safety" of their surgical procedures. He further states that the Petitioner's "contributions ensure that [their] operations run seamlessly." Another letter from Y-L- describes the Petitioner's work with the team, including his coordination with the surgical team, strategic approach, and ability to anticipate the needs of the team.

SCOPS determined that the evidence lacked "independent objective evidence" that the Petitioner performed in a leading or critical role for organizations or establishments with a distinguished reputation.

On appeal, the Petitioner asserts that the regulation does not require that an individual "hold executive authority, possess a particular job title, or be the sole decision-maker." He contends that the relevant consideration is whether his "role was integral to the functioning, success, or mission of the organization, particularly within specialized professional environments." He also emphasizes his surgical assistant license, ABSA certificate, as well as his Intuitive certificate and argues that he has "performed in a critical role within established and reputable healthcare organizations, contributing specialized expertise essential to surgical operations and patient outcomes." Although the Petitioner's license, certificates, and training demonstrate that he possesses professional qualifications, these alone do not establish that he performed in a leading or critical role within his organization.

While the Petitioner correctly notes that a particular title is not required to meet this criterion, the evidence must nevertheless demonstrate that he has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. Here, the record does not sufficiently establish his eligibility for this criterion. Specifically, the recommendation letters do not contain detailed, specific information evidencing the Petitioner's leading or critical role. Instead, the Petitioner as well as the letters make broad assertions without corroborating evidence demonstrating how he performed in a leading or critical role.

For example, while the Petitioner participated in activities through his membership in [redacted] and [redacted] the evidence does not demonstrate how his participation resulted in the Petitioner serving in a leading or critical role. Likewise, the Petitioner does not sufficiently demonstrate how his surgical assistant position at [redacted] somehow resulted in him serving in a leading or critical role. While the support letters stress that his work is critical to the surgical team and allows the "operations to run seamlessly," the letters do not contain detailed and specific information needed to demonstrate the Petitioner's performed in a leading or critical role for the [redacted]

Without specific, detailed information, the support letters do not show the Petitioner's leading or critical role.[1] Moreover, repeating the language of the statute or regulations does not satisfy the

[1] 28 *See generally 6 USCIS Policy Manual, supra,* at F.2(B)(1) (indicating that this is one criterion where letters from persons with knowledge of the significance of the person's leading or critical role can be particularly helpful to officers in

petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd,* 905 F.2d 41 (2d. Cir. 1990); *Avyr Assocs., Inc. v. Meissner*, No. 95 CIV. 10729 MBM, 1997 WL 188942 at *5 (S.D.N.Y. Apr. 18, 1997).

It is the Petitioner's burden to show, through the submission of relevant evidence that he can satisfy the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii). He has not made such a showing.

B. Reserved Issue

We note the Petitioner claims he meets additional criteria related to, original contributions of major significance in the field (v) and authorship of scholarly articles in the field (vi). However, as noted above, the Petitioner's unsuccessful demonstration of his eligibility under the criteria we discuss means he cannot numerically meet the required number of at least three criteria out of the 10 available and the four he claimed. Accordingly, we need not address the Petitioner's claimed eligibility for the additional criteria. We, therefore, reserve those issues. *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).

C. Final Merits Determination

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, 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).

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 he 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,* 784 F. Supp. 3d 798, 814 (E.D. Pa. 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa.").

For the reasons discussed above, the Petitioner has not demonstrated eligibility as an individual of extraordinary ability. 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.

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making this determination, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical).

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.