U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40776754

Date: MAR. 17, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a director of growth marketing, 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.

Service Center Operations (SCOPS) denied the petition, concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that she met at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal. 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 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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she 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 (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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The Petitioner is the Director of Growth Marketing for a technology company located in [redacted], California. She explains that she intends "to continue working in the field of digital marketing and growth strategy in the United States."

Because the Petitioner has not indicated or established that she 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). SCOPS determined the Petitioner satisfied two of the initial evidentiary criteria relating to original contributions and high salary. On appeal, the Petitioner asserts she meets the evidentiary criteria relating to published materials and leading or critical role. For the reasons discussed below, the Petitioner does not demonstrate she meets at least three categories of evidence. [1]

A. Published materials

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished 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." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.* The published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work).

[1] While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

Professional or major trade publications may be identified by their intended audience, while 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), www.uscis.gov/policy-manual.

We "may consider material that focuses solely or primarily on work or research being undertaken by a team of which the person is a member, provided that the material mentions the person in connection with the work or other evidence in the record documents the person's significant role in the work or research." *Id.*

On appeal, the Petitioner highlights a print article from *Ad Age* and asserts it meets the criterion because the Petitioner is named in the article and the article discusses her and her team's contributions to the advertising campaign for a home project planning application. Moreover, the record shows that the Library of Congress recognizes *Ad Age* as a major trade publication.

Accordingly, we disagree with and withdraw SCOPS' determination regarding this criterion, and conclude that the Petitioner has established that she meets its requirements.

B. Contributions

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

See generally 6 USCIS Policy Manual F.2(B)(1). SCOPS determined the Petitioner submitted sufficient evidence to satisfy this criterion. However, we disagree and withdraw SCOPS' conclusion.

The Petitioner submitted five letters to support her claim that she has made qualifying contributions to the digital marketing industry. Specifically, while at [redacted], she states that "she pioneered two interconnected innovations: a server-to-server data integration system that preserved essential marketing signal while respecting new privacy standards, and a proprietary incrementality testing framework that allowed the company to quantify the true impact of its advertising without relying on invasive user-level tracking."

While we acknowledge the Petitioner's original contributions in the field, she has not established the level of significance in the field required by this criterion. The support letters for the Petitioner contain conclusory statements and do not specifically explain her contributions' significance to her field. For example, a letter from a client partner at [redacted] states:

> [The Petitioner] is a visionary marketing leader whose original contributions have not only propelled [redacted] to new heights but have also had a lasting impact on [redacted] and the broader marketing ecosystem. Her work in server-to-server integration, incrementality testing, and privacy-first marketing has set new standards for the industry, and . . . her contributions will continue to shape the future of digital advertising.

But the letter does not provide examples of how the Petitioner has had a lasting impact on the broader marketing ecosystem or will shape the future of digital advertising. Also, a letter from a marketing advisor states that the Petitioner "is an extraordinary marketing professional whose innovative strategies and industry influence have reshaped the role of brand marketing in two-sided marketplaces" and that "[h]er thought leadership and original contributions have had a profound impact not just within [redacted], but across the broader marketing community." But the letter does not detail how her contributions have had a profound impact on the broader marketing community.

Detailed letters from experts in the field explaining the nature and significance of the person's contribution may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance. *Id.* Submitted letters should specifically describe the person's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise. *Id.* In this case, the letters lack specific, detailed information explaining how the Petitioner has made original contributions of major significance in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The US. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that she has made original contributions of major significance in the field.

C. 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).

On appeal, the Petitioner contends SCOPS conflated the analysis of this criterion with the original contributions criterion. Upon review, we agree with the Petitioner and hereby withdraw this portion of SCOPS' decision. Nevertheless, upon de novo review, we conclude that the Petitioner does not show she fulfills this criterion.

Here, the Petitioner focuses on her role as the Director of Growth Marketing for the Paid Media Acquisition Department at [redacted]. The record establishes that the Petitioner holds a leading role for the Paid Media Acquisition Department at [redacted]. Specifically, the Petitioner submitted letters from [redacted]'s Senior Director of Growth Marketing, and Co-founder and Chief Executive Officer, outlining the Petitioner's duties and accomplishments. The next question is whether the Paid Media Acquisition Department has a distinguished reputation, defined as "marked by eminence, distinction, or excellence or befitting an eminent person." *Id.*

On appeal, the Petitioner asserts that [redacted] is an organization of "undisputed distinguished reputation." The Petitioner highlights that in 2021, the company raised $271 million at a $3.2 billion valuation. She also provided articles about the company's partnerships with Redfin, Nextdoor, Alexa+, and Red Ventures. Notably, the Alexa+ article does not mention [redacted] and the Redfin and Red Ventures articles are dated after the date of filing. A petitioner must meet all the eligibility requirements of the petition at the time of filing. 8 C.F.R. § 103.2(b)(1), (12). Moreover, the Petitioner submitted three media articles including an article that shows that the company is ranked at number [redacted] on Fortune's [redacted] Best Workplaces in Technology. While the evidence reflects that the company has a positive reputation and has experienced some notable success, it does not demonstrate the distinguished reputation of the company. More importantly, the Petitioner does not provide supporting documentation to establish that the Paid Media Acquisition Department, the division or department in which she has a leading role, has a distinguished reputation, as required under this criterion. The Petitioner did not include evidence, for example, showing the field's view of the Paid Media Acquisition Department or how its successes or accomplishments relate to others, signifying a distinguished reputation consistent with the regulatory criterion.

Without more, we cannot conclude that the Petitioner meets this criterion

D. Salary

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for "evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. Comparative wage or remuneration data that is appropriate for the alien's occupation and location should be submitted to establish that their compensation is high relative to others working in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1). SCOPS also determined the Petitioner submitted sufficient evidence to satisfy this criterion. However, we disagree and withdraw SCOPS' conclusion.

The Petitioner submitted evidence indicating her annual base salary is $264,000 as a director of growth marketing in [redacted], California. She stated that her responsibilities align with the U.S. Bureau of Labor Statistics (BLS) Standard Occupational Classification 11-2021 – Marketing Managers. In support, the Petitioner provided the BLS *Occupational Outlook Handbook* entry for "Advertising, Promotions, and Marketing Managers," which states that the median annual wage for the marketing manager occupation in the United States was $161,030 in May 2024 with the highest 10 percent earning more than $239,200. The Petitioner also submitted the BLS Occupational Employment and Wage Statistics data which indicate the annual 90th percentile wage for marketing managers in the [redacted] metropolitan area is equal to or greater than $239,200 per year.

The Petitioner argues that her total compensation "exceeds the 95th percentile of compensation for executives in comparable roles in the U.S. technology and marketing sectors," but she did not provide supporting evidence that would allow a comparison between her total remuneration and that of other executives or senior marketing managers in her geographic area. Both precedent and case law support this application of 8 C.F.R. § 204.5(h)(3)(ix). *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). Here, the Petitioner has not established that she has commanded a high salary or other significantly high remuneration for services in relation to others in the field.

Accordingly, she has not established that she fulfills 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).

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

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 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.