U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41810164

Date: MAR. 30, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks 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.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner received a major, internationally recognized award or met the requirements of at least three of the ten 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if they are 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).

II. ANALYSIS

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS concluded that the Petitioner satisfied two criteria relating to membership in associations and high remuneration at 8 C.F.R. § 204.5(h)(3)(ii) and (ix). However, SCOPS further determined that the Petitioner did not meet the remaining four claimed evidentiary criteria associated with awards, scholarly articles, display of work, and performing in a leading or critical role at 8 C.F.R. § 204.5(h)(3)(i) and (vi-viii). On appeal, the Petitioner again asserts that he meets the same six criteria. We will not disturb SCOPS's determinations regarding the Petitioner's membership or high remuneration. Upon de novo review, we conclude that the Petitioner has met the additional criterion of performing a leading or critical role under 8 C.F.R. § 204.5(h)(3)(viii) and has therefore satisfied the initial evidence requirements.

A. 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 contends that he is in both a leading and critical role as a founder and CEO of [redacted] (the Company.) The Company created an artificial intelligence (AI) auditing platform which "automates repetitive audit workflows, enhances risk detection, and delivers continuous compliance monitoring, enabling internal and external auditors to capture, analyze and act on complex audit data with greater speed and accuracy." The record contains the Company's website pages, along with various other websites, which list the Petitioner as a co-founder and CEO, as well as an employment letter which includes his position and job duties. In addition, the petition includes letters of support which describe the Petitioner as a "key architect of [the Company's] AI-powered auditing platform." We conclude that the evidence in the record establishes the Petitioner "has performed in a leading or critical role." 8 C.F.R. § 204.5(h)(3)(viii).

Further, the Petitioner contends that his company has a distinguished reputation. The *USCIS Policy Manual* states that, "[f]or a startup business, officers may consider evidence that the business has received significant funding from government entities, venture capital funds, angel investors, or other such funders commensurate with funding rounds generally achieved for that startup's stage and industry, as a positive factor regarding its distinguished reputation." *See generally* 6 USCIS Policy Manual F.2(B)(1), www.uscis.gov/policy-manual. The Petitioner contends that the Company is a start-up and received $2.1 million in total funding with $1.6 million in venture capital funding. The record contains evidence that the Company was founded in 2024. The record includes articles which demonstrate that "early stage companies generally raise between $250K and $2M in funding." Therefore, the evidence in the record reflects that the Petitioner's start-up company has received a level of funding to establish a "distinguished reputation" under this definition.

We conclude that the Petitioner has shown, by a preponderance of the evidence, that he performed in a leading and critical role for a company with distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

B. Final Merits Determination

Based on the foregoing discussion, the Petitioner has satisfied at least three of the ten evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i)-(x).[1] We will therefore withdraw SCOPS' decision, because that decision was based on a determination that the Petitioner had satisfied only two criteria and that he did not satisfy the initial evidence requirements for this classification.

However, granting three criteria does not suffice to establish eligibility for the classification the Petitioner seeks. USCIS must now make a final merits determination on the Petitioner's filing and consider whether the record establishes the sustained national or international acclaim and recognized achievements sufficient to place the Petitioner among the small percentage at the very top of his field. *See* section 203(b)(l)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. SCOPS did not make such a finding. Rather than make this determination in the first instance, we will remand the matter to SCOPS.

[1] We need not consider the Petitioner's arguments that he meets additional evidentiary criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x), beyond the three already granted. *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). As the matter will be remanded, SCOPS may consider those arguments prior to addressing the final merits.

The final merits determination should weigh the evidence submitted in support of all claimed initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), any other potentially relevant evidence in the record (including evidence that does not fit one of the evidentiary criteria), and the Petitioner's claims and evidence on appeal. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2).

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.