U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38494542

Date: MAY 12, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a business manager and consultant, 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 that the record did not establish that the Petitioner met the initial evidence requirements for this classification through evidence of a one-time achievement (a major, internationally recognized award) or by meeting at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3). 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

To establish eligibility as an individual of extraordinary ability, a petitioner (or anyone on the petitioner's behalf) must establish that they:

- Have extraordinary ability in the sciences, arts, education, business, or athletics;
- Seek to enter the United States to continue work in their area of extraordinary ability; and that
- Their entry into the United States will prospectively substantially benefit the United States.

Extraordinary ability must be demonstrated by evidence of sustained national or international acclaim as well as extensive documentation that the petitioner's achievements have been recognized in the field. Section 203(b)(1) of the Act.

The implementing regulation further states that 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." A petitioner can demonstrate that they meet the initial evidence requirements for this immigrant visa classification through evidence of a one-time achievement (that is, a major, internationally recognized award). If such evidence is unavailable, then they must alternatively provide evidence that meets at least three of the ten listed criteria, which call for evidence about lesser awards they may have received, published material about them in qualifying media, and their authorship of scholarly articles, among other types of evidence. 8 C.F.R. §§ 204.5(h)(2),(3).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination, assessing whether the record shows that the alien possesses the acclaim and recognition required for this highly exclusive immigrant visa classification. *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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th. Cir. 2022).

II. ANALYSIS

The Petitioner is a business manager and consultant who has operated his own businesses for several years in Brazil, providing administrative support and financial and tax consulting services. The evidence also indicates that he has been an advocate for patient blood management (PBM), an approach to blood transfusion said to improve patient outcomes and reduce healthcare costs. He states that he will provide business and management consulting services in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he 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 did not meet any of the six evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) that he claimed to meet. On appeal, the Petitioner asserts that he meets the same six evidentiary criteria that he initially claimed. After reviewing all of the evidence in the record, we conclude that the Petitioner has not satisfied the initial evidence requirement for classification as an alien of extraordinary ability.

1. Evidence of Lesser Nationally or Internationally Recognized Prizes or Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner bases his claim to this criterion on two plaques awarded by [redacted] (translated in the record as "Factoring Union of Sao Paulo Estate [*sic*]") to a company he founded, [redacted]. The evidence consists of two pages taken from

what appears to be the association's quarterly newsletter which includes a photograph of the Petitioner receiving a trophy with a large "15." An accompanying paragraph notes that [redacted] has been "in the market" for 15 years and includes quotes from the Petitioner describing the business. In addition, three photographs show an unidentified person receiving a trophy with a large "20" and a plaque with text in Portuguese. Text below these photographs indicate that the plaque was awarded to [redacted] for 20 years of service, but is not accompanied by a translator's certification as required per 8 C.F.R. § 103.2(b)(3).[1] The translator must certify that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit a properly certified English language translation of the plaque as required, we accord this evidence no weight as we cannot determine whether it supports his claim.

The evidence regarding the former trophy shows that the Petitioner received an award on behalf of his company, but does not establish that the award was received for excellence in the field of business and management consulting. Rather, it shows that [redacted] was recognized for 15 years of activity in the factoring industry. On appeal, the Petitioner's counsel makes several assertions regarding this award, but does not refer to any evidence in the record which supports these assertions. Counsel's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). We also note that the awarding organization represents businesses in the Brazilian state of [redacted] and the record does not indicate that any recognition for this award reached beyond the organization and its members. So the Petitioner has not established that he has received a nationally or internationally recognized award for excellence in the field of management and business consulting.

2. Evidence of Membership in Associations Requiring Outstanding Achievements of Members

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." If membership in an association in the petitioner's field has been established, we determine whether the association requires those at the petitioner'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.

Here, the Petitioner asserts that his volunteer role as a local mentor in the Service Corps of Retired Executives (SCORE) in the United States qualifies under this criterion.[2] He submitted an email and online profile showing his approval as a volunteer, and a list of mentoring sessions he has conducted since his approval as a volunteer. While the Petitioner notes on appeal that the email indicates that he met the association's on-boarding requirements, it makes no mention of the specifics of those requirements. Counsel's appeal brief states that the on-boarding process for SCORE ensures "that

[1] The translator's certificate in the record specifically states that it covers only the document concerning the 15-year award given to Vision.

[2] The Petitioner initially claimed to meet this criterion based upon his memberships in several other organizations, including [redacted] and the Regional Administration Board of [redacted], Brazil. But on appeal the Petitioner does not challenge SCOPS' decision regarding these other organizations, and we will therefore not consider these memberships in our analysis.

only individuals with exceptional business acumen and expertise are approved," but this is another instance where these assertions are not supported by the record.[3] The Petitioner has not established that SCORE requires outstanding achievements of its members, or that those achievements are judged by national or international experts in their fields. Therefore he does not meet this criterion.

3. Performed in a Leading or Critical Role for Organizations with a Distinguished Reputation

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." A 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 top 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.

As mentioned above, the Petitioner founded and managed [redacted] in Brazil together with his spouse, and we agree with SCOPS that the evidence sufficiently establishes his leading role for the company. As for the second element of this criterion, the Petitioner asserts that [redacted] distinguished reputation is shown by the company's longevity as well as by the award from [redacted] discussed above. We note that the longevity of an organization is not, by itself, sufficient to show its distinguished reputation. *Id.* And since the award from [redacted] serves as an acknowledgement of [redacted] longevity, neither it nor the paragraph discussing [redacted] receipt of the award significantly add to a showing of the company's reputation.

Additional evidence concerning [redacted] reputation includes an article which appears to have been published in [redacted] internal publication for the final quarter of 2017, possibly the same publication and edition in which the award announcement was published. In it the Petitioner is interviewed about [redacted] its work, and its future prospects. However, this single article in a publication of unknown circulation is insufficient to establish that [redacted] enjoyed a distinguished reputation in the broader management and business consulting industry, beyond the readers of this publication.

For all of the reasons discussed above, we agree with SCOPS and conclude that the Petitioner has not established that he meets this criterion.

[3] The brief refers to "Attachment 3" as a letter from SCORE describing the criteria for membership, but the record includes no such attachment. We also note that the "Table of Exhibits" included with the Petitioner's appeal makes no mention of this or any other attachments.

4. Commanded a High Salary or Significantly High Remuneration in Relation to Others in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) seeks "[e]vidence 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), www.uscis.gov/policy-manual.

In response to the request for evidence issued by SCOPS, the Petitioner submitted copies of his Brazilian income tax statements for the calendar years 2018 and 2019 for both companies he co-owned, [redacted] and [redacted] Management). These documents showed the following:

		[redacted]	[redacted] Management
2018	Total Income	R$ 47,431	R$ 24,000
	Employment Income	R$ 11,431	----------
	Profit & Dividends	R$ 248,954	----------
	Paid to Owner	----------	R$ 205,000
2019	Total Income	R$ 54,946	R$ 28,000
	Employment Income	R$ 18,946	----------
	Profit & Dividends	R$ 264,600	----------
	Paid to Owner	----------	R$ 300,000

When submitting this evidence, the Petitioner asserted that for purposes of comparison, his total compensation from both of these companies was R$ 525,385 for calendar year 2018 and R$ 647,546 for calendar year 2019.

The Petitioner also submitted a salary survey from www.salaryexplorer.com for the position of chief executive officer in Brazil which showed the monthly average salary to be R$19,900 (R$ 238,800 annual salary) and the high monthly salary to be R$ 31,600 (R$ 379,200 annual salary). The survey states that these reflect gross salary figures including housing, transport, and other benefits, but addresses bonuses separately.

In its decision, SCOPS noted that for [redacted], the statements indicated that much of the "total income" figure derived from "rentals and royalties," with income from employment only a small fraction of the total. SCOPS determined that based upon the employment income figures for both companies, the Petitioner's salary was far below that reported in the salary survey. On appeal, the Petitioner asserts only that his intent was not to include the passive income he received but just his salary as a CEO of both companies. But he does not specifically refer to or challenge the figures included in SCOPS' decision, which did not reflect the figures from Box 4 of the statements for "profits and dividends" or in Box 5 for "amounts paid to the owner."

We first note that this criterion seeks evidence of either "high salary" or "significantly high remuneration" relative to others in the field. So when a petitioner submits evidence relating to compensation, it must also include comparative wage or remuneration data showing that they received either a high salary or significantly high remuneration. *See generally* 6 *USCIS Policy Manual* F.2(B)(1). Second, that comparative evidence must provide an appropriate comparison to their salary or remuneration in terms of position, location, and other relevant factors. *Id.; see also Xia v. Miller*, No. 3:20-CV-01468-JR, 2021 WL 5817324, at *6 (D. Or. Nov. 18, 2021), *report and recommendation adopted*, No. 3:20-CV-01468-JR, 2021 WL 5825999 (D. Or. Dec. 6, 2021) (finding that a petitioner's burden under this criterion includes the need to explain how the comparative salary evidence presented provides "a relevant, appropriate, and fair comparison").

Here, the Petitioner has not shown that the salary survey he submitted, which does not differentiate between chief executives based on industry or company size, is an appropriate basis for comparison to his salary earned as the owner of a small consulting business with the discretion to set salaries and distribute earnings. In addition, since the survey does not consider bonuses earned by chief executives, which it acknowledges are common and can be substantial for senior executives, it does not provide sufficient information for comparison to the Petitioner's total remuneration. Accordingly, the record does not establish that the Petitioner's salary can be considered to be high or his total remuneration to be significantly high, and we conclude that he does not meet this criterion.

5. Other Evidentiary Criteria

The Petitioner also asserts that he meets the evidentiary criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (v), relating to his participation as a judge of the work of others and his original contributions of major significance to the field, respectively. But as the Petitioner cannot fulfill the initial evidentiary requirement by meeting at least three criteria under 8 C.F.R. § 204.5(h)(3), the identified bases for denial discussed above are dispositive of the appeal. We therefore reserve the issue of whether the Petitioner meets these additional criteria. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (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. 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."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25.

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.