U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37788060

Date: MAY 15, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a business 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.

SCOPS denied the petition in August 2023, concluding that the record did not establish that the Petitioner had either received a major, internationally recognized award or satisfied at least three of ten initial evidentiary criteria, as required. The Petitioner filed a motion to reconsider, which SCOPS granted. SCOPS again denied the petition in March 2024. We dismissed a subsequent appeal in January 2025. The matter is now before us on motion to reconsider.

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). Upon review, we will dismiss the motion.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

In denying the petition in March 2024, SCOPS determined that the Petitioner had not satisfied any of six claimed criteria at 8 C.F.R. § 204.5(h)(3). The Petitioner disputed this conclusion regarding five of those criteria. In our appellate decision, we addressed three of the criteria in detail, concluding that the Petitioner had not satisfied the criteria relating to published material about the alien; original contributions of major significance; and authorship of scholarly articles. The Petitioner contests all these conclusions on motion.

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) calls for published 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. The evidence must include the title, date, and author of the material, and any necessary translation.

The Petitioner submitted translated copies of eight articles with the initial filing of the petition and nine more in response to a request for evidence (RFE). SCOPS cited various deficiencies related to all of the submissions and concluded that the Petitioner had not satisfied the requirements of the criterion.

In our dismissal of the Petitioner's appeal, we concluded that the Petitioner did "not adequately address . . . the lack of cited authors for several of the submitted articles." We also stated that SCOPS "determined that multiple articles were merely paid advertisements for the Petitioner's business."

On motion, the Petitioner states that, because SCOPS did not specify which articles appear to be advertisements, the Petitioner "could not properly address this issue." The proper time to raise this issue would have been on appeal, because it relates to a determination by SCOPS rather than by the Administrative Appeals Office. Review of the Petitioner's appellate brief indicates that the Petitioner did not raise the issue on appeal. The Petitioner's discussion of the issue on motion is not a basis for reconsideration of our appellate decision. We will briefly note, here, that the materials that appear to be advertisements are among those published without author credits. The published items are not formatted as articles. Instead, they list bullet points about one of the Petitioner's businesses; feature promotional slogans such as "To be the best immigration company in China"; and show, at the bottom of each piece, the business's web address and contact information.

The Petitioner asserts, on motion, that we did not duly consider five articles in the RFE response that included author credits. One of those articles was published after the petition's filing date and therefore cannot establish eligibility at the time of filing as required by 8 C.F.R. § 103.2(b)(1). The contents of that recent article could possibly have been considered in the context of a final merits determination, if the Petitioner had met three criteria, but cannot establish that the Petitioner met any baseline criterion at the time of filing.

Articles from [redacted] and [redacted] feature quotations from the Petitioner, offering advice to Chinese nationals seeking to emigrate to the United States. But the articles provide no information about the Petitioner apart from her name and title. Therefore, the Petitioner has not shown that the articles are about her.

A translation of a [redacted] 2019 article, said to have appeared online in [redacted] has an author credit, but the foreign-language printout does not show a web address. The absence of this information impedes verification of the article's publication and authenticity. We note that a different printout, also attributed to [redacted] shows a web address at the bottom of the page, indicating that [redacted] does not systematically omit that information. That second printout, however, lacks the required author credit.

A [redacted] 2022 interview with the Petitioner appeared in [redacted], published with a disclaimer by "a consulting organization in China that focuses on providing professional services for families and family offices." The article indicates that the Petitioner's business is affiliated in some way with that consulting firm. The Petitioner did not establish that [redacted] meets the regulatory requirements for a qualifying publication.

For the above reasons, closer examination of the articles would not have changed the outcome of the appeal. The Petitioner has not shown proper cause for reconsideration in this regard.

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.

On appeal, the Petitioner quoted at length from her own professional plan, and provided a two-sentence summary of previously submitted reference letters, stating that they "clearly indicated [the Petitioner's] contributions in combining family office services with immigration services in China and combining the FLIPPING program in the U.S. real estate subdivision field with the U.S. E-2 treaty investment visa program. These letters also attested to [the Petitioner's] contribution to business investment, consultation, and management industry."

In our appellate decision, we stated:

> On appeal, the Petitioner primarily discusses her previously submitted professional plan . . . [and] broadly references her previously submitted supporting letters. . . . However, the Petitioner does not reference specifically or discuss the contents of any previously submitted letters to explain how they support her claims concerning this criterion; nor does the Petitioner acknowledge or address the Director's concerns about the lack of objective evidence corroborating claims made in the letters.

We briefly discussed the letters in the record, stating, for instance, that they "highlight the number and value of the Petitioner's past projects and the number of jobs they claim the Petitioner helped to create with her business strategy" and "discussed ways in which the Petitioner used her 'one-stop-shop' strategy to help her clients." We concluded, however, that "the Petitioner [did] not point to objective evidence in the record that supports these claims," and did not show that her work "had an impact that can be deemed as having had major significance in her field."

On motion, the Petitioner asserts that it had previously discussed "the contents of the supporting letters in the RFE response." The RFE response predated the denial of the petition and was not part of the appellate brief. We reviewed the letters in our de novo review of the record, but the purpose of the appeal is to specifically identify errors of law or fact in the denial decision. *See* 8 C.F.R. § 103.3(a)(1)(v). The Petitioner cannot meet this burden by making the general assertion that review of a category of evidence in the record will support her claims.

The Petitioner, on motion, quotes at length from four of the previously submitted letters and asserts that they are corroborated by "awards, certifications, and news articles" in the record. Specifically, the Petitioner cites the following:

- Appointment as vice president of the [redacted];
- A letter from the chairman of the [redacted], indicating that the Petitioner received a 2022 [redacted]; and
- Three online articles describing some of the Petitioner's accomplishments.

The Petitioner's appellate brief did not identify these materials as evidence to corroborate the letters. We have reviewed these materials, and they do not establish that the Petitioner's contributions have major significance in her field. A translated certificate from the [redacted] refers to the Petitioner's "remarkable innovations" and "influence" but provides no details as to what those innovations are or how they have influenced her field. The letter from the chairman of the [redacted] states that the "specific selection conditions" for the [redacted] include "remarkable achievements in [one's] field" and "certain social influence," but the letter does not identify any of the Petitioner's contributions or explain their significance or influence. These vague and general statements do not corroborate the major significance of any specific contribution by the Petitioner.

An anonymous article published on [redacted] quoted the Petitioner's remarks from the [redacted] award ceremony and described the services that the Petitioner's company provides. The article ends with the disclaimer that '[redacted] is an information publishing platform, and [redacted] online provides information storage space services." The printout does not say who uploaded the article to [redacted], and the content and tone of the article appears to be promotional in nature.

An anonymous online article attributed to [redacted] likewise has a promotional tone, listing the Petitioner's credentials and stating that her company "is committed to creating a full-category one-step intelligent platform for overseas asset allocation." The record does not establish the circumstance of the article's publication, and the article does not establish the major significance of the Petitioner's contributions.

The third article cited in the relevant portion of the motion to reconsider is the 2022 [redacted] interview discussed earlier. The Petitioner quotes a passage indicating that she "provided customers with the most suitable investment choice . . . and promoted the development of the local economy." The article does not establish how the local impact of the Petitioner's work has major significance in the field. Benefit to individual customers does not meet this threshold.

The Petitioner has not established proper cause for reconsideration with regard to original contributions of major significance.

The regulation at 8 C.F.R. § 204.5(h)(3)(vi) calls for evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. In general, it should have footnotes, endnotes, or a bibliography, and may include graphs, charts, videos, or pictures as illustrations of the concepts expressed in the article. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

For other fields, a scholarly article should be written for learned persons in that field. Learned persons include all persons having profound knowledge of a field. *Id.*

In evaluating whether a submitted publication is a professional publication or major media, relevant factors include the intended audience (for professional journals) and the circulation or readership relative to other media in the field (for major media). *Id.*

The Petitioner claimed to have satisfied this criterion as the author of a paper published in [redacted] SCOPS concluded that the Petitioner had not shown that the article qualifies as scholarly, or that it appeared in a qualifying publication. In our appellate decision, we stated:

> On appeal, the Petitioner argues that [redacted] is a professional journal whose intended audience is "professionals within the relevant fields," thereby asserting that circulation and readership evidence is not relevant in this matter. We disagree. Despite the Petitioner's assertions that [redacted] is a professional journal, we find that the publication is not intended "for learned persons in that field." . . . In this instance, the Petitioner's field is that of business and entrepreneurship. However, the articles in [redacted] cover a wide range of topics, which include not only the Petitioner's field, but also but also a variety of others. . . . Given the breadth of the subject matter covered in [redacted], we cannot conclude that this publication was intended for learned persons in the Petitioner's field.

On motion, the Petitioner states: "It appears that AAO used the evaluation standard for scholarly articles to determine whether the publication qualifies as a professional publication. This approach deviates from USCIS's Policy Manual." The Petitioner asserts:

> It is pertinent to mention that "for learned persons in that field" is the standard used to determine whether the article authored by the petitioner should be considered as a scholarly article and should not be used to assess whether a publication qualifies as a professional journal.

On appeal, the Petitioner had relied on the distinction between "professional . . . publication" and "major media" to assert that "circulation and readership evidence is not relevant in this matter." But readership statistics are less important in "professional publications" precisely because such publications are geared toward a narrower, smaller audience. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 186 (D.N.J. 2021) (citing *Braga v. Poulos*, No. CV 06-5105 SJO FMOX, 2007 WL 9229758, at *6 (C.D. Cal. July 6, 2007), aff'd, 317 F. App'x 680 (9th Cir. 2009)).

A publication that is not specifically aimed at a particular industry, trade, profession, or field necessarily has a larger intended audience. Therefore, the Petitioner cannot avoid the requirement for circulation data by asserting that her article appeared in a "professional publication." Likewise, the specialized nature of her particular article does not imply that the article must have appeared in a professional or trade publication, because the regulation indicates that a scholarly article may appear "in professional or major trade publications *or other major media*." It therefore follows that not every scholarly article appears in a professional publication, and not every publication that carries scholarly articles is a qualifying publication under 8 C.F.R. § 204.5(h)(3)(vi).

The Petitioner maintains that [redacted] "is a national large-scale comprehensive professional academic journal." Previously, on appeal, the Petitioner had asserted that requirements specific to "the academic field . . . [are] not applicable to the current case." While the Petitioner calls [redacted] "large-scale," the Petitioner, on motion, cites no record evidence establishing the circulation of that publication.

The Petitioner's arguments regarding her published article do not show proper cause for reconsideration.

On motion, the Petitioner observes that we reserved discussion on two claimed criteria, relating to membership in associations at 8 C.F.R. § 204.5(h)(3)(ii) and performance in a leading or critical role for organizations or establishments with a distinguished reputation at 8 C.F.R. § 204.5(h)(3)(viii). The Petitioner asks that we address these criteria on motion.

As we explained in our appellate decision, we reserved these two criteria because, without at least one other granted criterion, discussion of these two criteria could not change the outcome of the appeal because 8 C.F.R. § 204.5(h)(3) requires a petitioner to meet at least three of the criteria. The Petitioner discusses the two reserved criteria at some length on motion, but because the Petitioner has not established that we erred with regard to our conclusions concerning published material, scholarly articles, and original contributions, the Petitioner likewise has not shown that we erred in reserving the remaining two criteria.

On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, we will dismiss the motion. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.