U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38498544

Date: MAY 19, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a tourism specialist and entrepreneur, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This EB-1 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. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish, as required, that the Petitioner meets at least three of the ten initial evidentiary criteria for this classification. 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 qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the United States as an immigrant.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless 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), they must provide sufficient qualifying documentation that meets at least three of the ten lesser evidentiary criteria listed at 8 C.F.R.

§ 204.5(h)(3)(i)–(x). 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.

If a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) must 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 Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

The Petitioner seeks the extraordinary ability visa as "Tourism Specialist and Entrepreneur."[1] The Petitioner has worked as the president of [redacted], a company that he established both in Brazil and in the United States. [redacted] offers specialized travel and tourism services to Brazilian international tourists and to U.S. families traveling with children who have special needs. The Petitioner previously worked for a tourism company in Brazil, [redacted], first as a sales promoter and then as a manager.

A. Evidentiary Criteria

Because the Petitioner has not indicated or shown 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). The Petitioner claimed to have satisfied four of these criteria, summarized below:

- Published materials about the individual;
- Original contributions of major significance in the field;
- Performance in a leading or critical role for distinguished organizations or establishments; and
- Commercial successes in the performing arts.

8 C.F.R. § 204.5(h)(3)(iii), (v), (viii), and (x).

SCOPS concluded that the Petitioner did not meet the three initial criteria at 8 C.F.R. § 204.5(h)(3)(iii), (v), and (viii), and did not discuss the criterion at 8 C.F.R. § 204.5(h)(3)(x). On appeal, the Petitioner refers to previously submitted documents in the record and reasserts that he meets three evidentiary criteria discussed in the decision.[2]

[1] The Petitioner indicated that his proposed employment is "Tour Operator" on the Form I-140, Immigrant Petition for Alien Workers.

[2] As the Petitioner does not contend on appeal that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(x), we deem it waived.

Upon de novo review, we conclude that the Petitioner does not meet at least three criteria and he is not eligible for the extraordinary ability visa classification sought, as discussed below.

1. Published Materials

This criterion requires "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. Such evidence shall include the title, date, and author of the material, and any necessary translation." 8 C.F.R. § 204.5(h)(3)(iii).

SCOPS concluded that the Petitioner did not meet this criterion as the publications do not qualify as professional or major trade publications or other major media. On appeal, the Petitioner contends that [redacted] is a major trade publication and that [redacted] and [redacted] are both major media publications.

We will first discuss the [redacted] article dated [redacted] 2012. This article largely focuses on a specific event, "the hosting of the [redacted]."[3] Despite briefly mentioning the Petitioner's name among the people gathered to cut the ribbon for this event, the article discusses the size of this event (pre-registered with "286 exhibitors and 826 agents") and the importance of investing in Brazil's tourism market, citing to remarks by the deputy secretary of tourism. Therefore, we conclude that this article is not about the Petitioner's work in the field and does not meet the requirements of this criterion. As such, we need not address the Petitioner's contention that this article is a major trade publication.

Next, we will evaluate the article entitled "[redacted]," purportedly from [redacted] dated [redacted] 2022. This article features the Petitioner and his company, [redacted] describes him as "tour guide and influencer who is a success on the Internet with his tips on Instagram '[redacted]" and includes some photos him posing with celebrities. However, the record offers inconsistent information about the magazine's name and description. The Petitioner provided website printouts from http://www[redacted], claiming the magazine as "an art, culture and community print/digital media magazine in the lower[redacted] named for [redacted]" with "reaching 100,000 readers over its three month shelf life." But the Petitioner offered another magazine's website traffic analysis from https://www[redacted], claiming 60,069 total visits worldwide from "Dec 2023 – Feb 2024" and describing the magazine as "an international magazine specializing in fashion and entertainment." Here, the Petitioner provided inconsistent information regarding the name and website of the publication, and such discrepancy raises doubts on the source and authenticity of the article. The Petitioner must resolve inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). As the Petitioner has not explained the discrepancy or offered other independent, objective evidence to resolve it, we conclude that this article does not fulfill this criterion and need not evaluate the Petitioner's contention that this magazine is a major media publication.

[3] The English version of the article does not translate the event's title into English. However, based on the description of this event in the article, we surmise that it is a tourism-related business fair attended by exhibitors and travel agents in Brazil.

Lastly, we will discuss the [redacted] magazine article published by [redacted], titled '[redacted]" SCOPS determined that this article lacks the author's name and date as required by 8 C.F.R. § 204.5(h)(3)(iii). In response to the request for evidence (RFE), the Petitioner submitted a declaration from the publisher of [redacted] who attests to authoring the article on [redacted] 2023,[4] but the Petitioner did not explain why the original article did not have the author's name and date. Additionally, the second page of the article contains the following promotional language: "[t]o learn more about planning your trip to [redacted] and to discover the best travel options, follow [redacted] on Instagram," making the article's purpose more self-serving. Marketing materials created for the purpose of selling the person's products or promoting the person's services are not generally considered to be published material about the person (this includes seemingly objective content about the person in major print publications that the person or the person's employer paid for). *See generally* 6 *USCIS Policy Manual*, *supra,* at F.2(B)(1), Criterion 3. Furthermore, the Petitioner did not provide probative evidence that [redacted] magazine published by [redacted] is a major media publication. The record only includes printouts of [redacted] own website information and does not offer information regarding its circulation or readership. *Id* (discussing the relevant factors in evaluating whether a submitted publication is a major media). Therefore, the Petitioner did not sufficiently establish that this article meets the regulatory requirements.

Based on the foregoing, we conclude that the Petitioner did not meet this criterion.

2. Original Contributions of Major Significance

This criterion requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v). For this criterion, the Petitioner must establish that not only has she made original contributions but that they have been of major significance in the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1), Criterion 5. For example, a petitioner may show that his contributions have been widely implemented throughout the field, or have otherwise risen to a level of major significance in the field. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (for a petitioner's contributions to be "of major significance," evidence must demonstrate that their work has been widely adopted or replicated by industry actors unaffiliated with them).

On appeal, the Petitioner claims that SCOPS failed to consider "the extensive documentary evidence, financial records, industry expert testimonials and direct impact analyses provided" showing his contribution that "fundamentally reshaped the tourism industry in Brazil and introduced a scalable model for business." However, SCOPS reviewed various evidence in the record, including presentations and manuals created by the Petitioner during the course of his employment at [redacted], articles about the importance of tourism in [redacted], reference letters from the Petitioner's former employer and colleagues, and testimonials from his clients, before concluding that the Petitioner's contributions are not of major significance to the field.

In the initial filing, the Petitioner claimed that his original contributions of major significance consist of: 1) development and implementation of [redacted] national franchising program; 2) guidelines and

[4] However, the counsel's RFE response letter claims that the article was published on November 25, 2022.

manuals developed for [redacted] on operational procedures and industry best practices; and 3) innovative tourism services to families traveling with special needs children.

First, we will discuss the Petitioner's claim regarding his contribution to [redacted] The Petitioner submitted copies of various manuals that he developed in the course of his employment on various topics such as franchise branding and implementation, sales procedures and techniques, marketing and publicity, and merchandising. The record also contains a reference letter from M-C-S-, the financial director and partner of [redacted] The letter explains that the Petitioner worked at the company since 2007 and when he took over the role of "Expansion and Implantation Manager" from 2014 to 2016, the Petitioner implemented a low-cost home office franchise model (instead of requiring each new franchisee to invest a substantial amount of capital to create a new franchise location) and this new franchise model created a steady flow of income that contributed to the success of the company.

With the RFE response, the Petitioner offered another letter from M-S-C-. This time, the letter generally claimed that the Petitioner's work impacted not just the company but the whole tourism sector by "coordinating with a wide range of partners, including hotels, airlines, and local service providers across Brazil and international destinations," contributing to job creation through supporting "local economies, including shops, hotels, supermarkets, and car rental agencies," and establishing "new standards in the industry" through his approach to national expansion and franchises. The Petitioner also submitted a new letter from his former colleague from [redacted] asserting that his franchise model gained widespread recognition, "attracting significant attention from major media outlets, specialized franchise websites, and business and franchise expositions."

However, the Petitioner has not provided specific and objective evidence, such as letters from independent industry experts or industrial standards adopted by other tourism companies regarding franchising and sales, to demonstrate that the franchise model that the Petitioner implemented at [redacted] is original contribution to the field or that it is of major significance to the field. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (stating that assertions must be supported by relevant, probative, and credible evidence). Although the support letters indicate that the Petitioner's work contributed to the company's success and sales of franchise, they do not show that his work for the company was widely used and adopted by the field of tourism as a whole. The record lacks documentation corroborating the level of media attention or business expositions such that his technique or methodology is of major significance as contemplated by the regulation.

Next, we will evaluate the Petitioner's claim of his innovation in developing tourism packages catered to children with special needs. The Petitioner provided several support letters from his clients who praise his professionalism, preparation, knowledge, and assistance as a tour guide that made their trips special. Although these personal testimonials express high regard for the Petitioner's work, they do not elaborate on any specific methodology employed by the Petitioner that impacted the tourism industry. Additionally, the Petitioner offered a letter from a physician and educator who discusses positive effects of tourism on patients with autism and other neurodevelopmental disorders. The letter claims that "[the Petitioner's] project has already impacted families, going beyond mere tourism to offer opportunities for social inclusion, sensory stimulation, and motor development." However, the Petitioner has not established that the author is an expert in the tourism industry, and such letter does not show that the Petitioner's methodology is original or that it is a major contribution to the field of tourism.

Accordingly, the Petitioner has not identified any original contributions of major significance in the field.

3. Leading or Critical Role

This criterion requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii). A leading role should be apparent by its position in the overall organizational hierarchy and through the role's matching duties. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.(2)(B)(1), Criterion 8. A critical role means an alien contributed in a significantly important way to the activities of the organization, establishment, division, or department. *Id.* Additionally, the Petitioner must establish that the organization, establishment, division, or department has a distinguished reputation. The word "distinguished" ordinarily means "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Distinguished*, Merriam-Webster Online Dictionary, www.merriam-webster.com. Relevant considerations in determining whether an organization is "distinguished" include not only its relative size and longevity but also other factors, such as the scale of its customer base or relevant media coverage of it. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.(2)(B)(1), Criterion 8.

SCOPS concluded that the evidence does not show that the Petitioner held a leading or critical role for [redacted] as he was not solely responsible for success of the company. The Petitioner claims that this statement imposes an unreasonable and legally unsupported burden of proof. We agree and withdraw this statement. Upon review, the evidence establishes that the Petitioner played a critical role in the activities of [redacted].[5] The Petitioner's former employer and colleagues attested that the Petitioner was instrumental in developing the new franchise model and various manuals and guidelines for the company.

But we nevertheless conclude that the Petitioner did not establish the company's distinguished reputation and did not meet this criterion. Reputation is a measure of outside perception, and therefore simply submitting general and internal information about the company, such as letters from officials of that company, projects that a company undertook, or awards that the company received as a result of those projects, does not sufficiently establish a company's reputation. The Petitioner must also provide a basis for comparison to show that company is distinguished in relation to other companies in the same industry.

Here, the Petitioner has not provided evidence to show that [redacted] has distinguished reputations in comparison to other tourism companies in Brazil. The Petitioner asserted that the company's distinguished reputation is demonstrated by "its strategic partnerships with major international travel brands, including [redacted] and [redacted]," and "multiple industry awards." However, upon closer look, these "multiple industry awards" refer to "[redacted]" awards that the company received in 2015, 2016, and 2017, given to "exceptional partners who demonstrate outstanding performance and expertise in promoting and selling [redacted] products." Although the Petitioner claims that these awards place the company "among an elite group of top-performing partners," he has not provided corroborating evidence showing the reputation of such awards in the field or how being awarded by [redacted] for the sale and promotion of [redacted] products signify the company's distinguished reputation consistent with the regulatory criterion. Moreover, the Petitioner provided

[5] The evidence, however, does not indicate that he had a leading role at the company as the record does not provide an organizational chart of the company and how his position fits into the company's overall structure.

articles on [redacted] partnerships with [redacted] or other tourism-related companies, but the record does not show that they are indicative of eminence, distinction, or excellence but rather typical and standard industry practices among similarly situated organizations. The Petitioner has not provided the scale of its customer base or other media coverage relative to other companies in the field to evaluate its distinguished reputation.

Therefore, the Petitioner has not satisfied the requirements of this criterion.

B. Reserved Issues

Accordingly, the Petitioner has not satisfied at least three criteria at 8 C.F.R. § 204.5(h)(3) and does not meet the initial evidence requirement for this classification. As such, we reserve our opinion on the remaining claimed evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(x) as it will not change the outcome of this appeal. *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).

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 also decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25.

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his 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.

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.