U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39909825

Date: NOV. 24, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a legal 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(b0(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, concluding the record did not establish that the Petitioner qualifies as an alien of extraordinary ability either as the recipient of a major, internationally recognized award, or that the Petitioner meets at least three of the ten initial regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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

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 aliens 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 sustained acclaim and the 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 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).

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 alien 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

The record shows that the Petitioner earned a juris doctor degree from [redacted] Florida. The Petitioner's resume indicates that she has worked as a legal advisor and legal manager after graduating from law school in May 2020. She is seeking to work as a legal consultant.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has 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)(ii)(i)-(x). In the initial petition, the Petitioner claimed to satisfy four criteria. SCOPS evaluated the claims the Petitioner made in the initial petition and in response to the request for evidence (RFE) and concluded the Petitioner only satisfied one criteria, participation as a judge of others' work at 8 C.F.R. § 204.5(h)(3)(iv). On appeal, the Petitioner claims the same four criteria she discussed in her petition and in response to SCOPS' RFE. After reviewing all the evidence in the record, we conclude the Petitioner has not demonstrated eligibility for this highly restrictive immigrant classification for the reasons we will discuss below.

> *Documentation 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. 8 C.F.R. § 204.5(h)(3)(ii).*

In order to satisfy this criterion, the Petitioner must show that the association for which she claims present or past membership requires that members have outstanding achievements in the field, as judged by recognized experts in that field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Examples of associations in the field requiring outstanding achievements of their members may include a membership in certain professional associations and a fellow with certain organizations or institutions. *Id.*

Associations may have multiple levels of membership, and the level of membership afforded to the person must show that in order to obtain that level of membership, recognized national or international experts judged the person as having attained outstanding achievements in the field for which classification is sought. *Id.* Relevant factors that may lead to a conclusion that the person's membership in the association was not based on outstanding achievements in the field include instances where the person's membership was based solely on (1) a level of education or years of experience in a particular field, (2) the payment of a fee or by subscribing to an association's publications, and (3) a requirement for employment in certain occupations, such as union membership or guild affiliation for actors. *Id.*

The Petitioner claims that she meets this criterion based on membership in the American Bar Association (ABA); [redacted] Bar [redacted]; and the Florida Association for Women Lawyers (FAWL).[1] The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for documentation 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. As noted by SCOPS in the decision, the Petition provided documentation of her membership in these associations but did not provide any evidence to establish that her membership in these associations require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

On appeal, the Petitioner asserts that the FAWL and DCBA are "significant state-level organizations." She contends her membership in the ABA and [redacted] "confirms her professional rigor." She also maintains that "ABA membership is reserved for individuals who meet bar admission and ethical standing requirement." But the evidence in the record does not adequately establish if admission "as a member of the association" is contingent upon the Petitioner having attained outstanding achievement in her field as determined by recognized experts in the field. The Petitioner has not submitted sufficient evidence demonstrating the requirements for membership in the organizations. While we acknowledge that membership into these associations may be important for professional development, the evidence is not sufficient to satisfy this criterion. It is the Petitioner's burden to submit evidence that sufficiently corroborates her claims. Statements made without supporting documentation are of limited probative value and are insufficient to satisfy the Petitioner's burden of proof. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998). Here, the Petitioner's membership in the ABA, [redacted], and FAWL is not sufficient to support fulfillment of this criterion.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi).*

USCIS first determines whether the person has authored scholarly articles in the field. In academia, a scholarly article reports on original research, experimentation, or philosophical discourse, is generally peer reviewed, and may be published in professional or scientific journals or conference presentations. In other fields, a scholarly article should be written for others having profound knowledge in the field. *See generally 6 USCIS Policy Manual*, at F.2(B)(1).

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[1] We note that the Petitioner has not submitted documentation of an active law license in the United States, despite stating that she seeks to work as a legal consultant.

Second, USCIS determines whether the publication qualifies as a professional or major trade publication or other major media, we consider such relevant factors as the circulation or readership relative to other media in the field and the intended audience (for professional journals). *Id.*

As evidence for this criterion, the Petitioner references the publication of her article titled, [redacted] which she stated, addressed "substantive issues in tax law reform and corporate governance." The Petitioner claimed that it was a scholarly article published in JusBrasil and that JusBrasil is "an established platform with a readership of over 1.6 million monthly users and 900,000 legal professionals." SCOPS determined that the Petitioner did not meet the requirements of this criterion. Specifically, SCOPS noted that the audience of the published material may be the general public and not for learned individuals. On appeal, the Petitioner contends that the article "directly addresses the topic of professional legal relevance and was disseminated through a widely respected medium in the legal profession." The Petitioner further contends that JusBrasil is a major media and a "well-established professional forum."

As defined in the academic arena, a scholarly article reports on original research, experimentation, or philosophical discourse. *Id.* It is written by a researcher or expert in the field who is often affiliated with a college, university, or research institution. *Id.* Scholarly articles are generally peer reviewed by other experts in the field of specialization. *Id.* 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. *Id.*

Here, the record does not show that the Petitioner's article contains the characteristics of scholarly articles, as considered in the academic arena. The Petitioner did not establish that she wrote the article as a researcher or expert. Furthermore, the Petitioner's article does not contain features of academic scholarly articles, such as footnotes or bibliographies. For these reasons, the Petitioner did not show that her article qualifies as a scholarly article within the purview of academia.

For other fields, a scholarly article should be written for learned persons in that field. *Id.* Learned persons include all persons having profound knowledge of a field. *Id.* Here, the Petitioner did not show that her article was written for learned persons in the legal field or for other particular learned persons. Moreover, the Petitioner did not demonstrate that JusBrasil is intended for learned persons rather than a general audience or readers who subscribe to the online publications. Finally, the Petitioner did not show that JusBrasil qualifies as major media. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 185 (D.N.J. 2021) (finding argument that internet-accessible outlets by their nature have a worldwide reach substantially undermines any reasonable interpretation of "major").

While the Petitioner provided some information about the standing and readership of JusBrasil, the about page of JusBrasil states that they are "a startup that unites [la]w and [te]chnology to make justice go beyond the borders of the courts and reach the homes of any citizen, empowering their decisions through information." Therefore, the Petitioner has not offered sufficient evidence to support her claims that she published scholarly articles in her field in professional or major trade publications or other major media, and that her article was written for learned persons in her field.

For all these reasons, the Petitioner did not demonstrate she fulfills this criterion.

B. Reserved Issues

We note the Petitioner claims she met an additional two criteria related to her participation as a judge of the work of others in the same or an allied field of specification for which classification is sought and evidence that she has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. However, as noted above, the Petitioner's unsuccessful demonstration of her eligibility under the criteria we discuss means she cannot numerically meet the required number of at least three criteria out of the 10 available and the four she claimed. Accordingly, we need not decide on SCOPS' favorable conclusions for the fourth criterion as well as the Petitioner's claimed eligibility for the eighth criterion. We, therefore, reserve these issues. *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).

C. Final Merits Determination

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we do not need to provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

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,* 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.").

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