U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 40395018

Date: NOV. 25, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an entrepreneur and investor, seeks classification as an alien of extraordinary ability in the field of business. *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 requirements of this classification through evidence of a one-time achievement or 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.[1]

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 alien 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.

[1] The Petitioner indicated on Form I-290B that he would submit a brief and/or additional evidence within 30 calendar days of filing his appeal. As of the date of this writing, we have not received a brief. Our decision is therefore based on the Petitioner's statement regarding the basis of his appeal, as well as the evidence of record.

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 holds a master of science degree in economics and business administration issued by the [redacted] (Denmark) in 2023. He also completed the academic requirements for completion of the Executive MBA program at [redacted], and was awarded a diploma subsequent to the filing of this petition. He intends to continue to develop businesses in the United States that he has co-founded while also identifying investment opportunities.

### 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 determined that the Petitioner met one of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to his participation as a judge of the work of others in his field. On appeal, the Petitioner asserts that he also meets the evidentiary criteria relating to his leading or critical role for organizations with a distinguished reputation and his original contributions of major significance to the field.[2] After reviewing all of the evidence in the record, we conclude that the Petitioner has not established that he meets at least three of the evidentiary criteria.

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." To meet the requirements of this criterion, a petitioner must first establish that they have served in a role that was either leading or critical for an organization or establishment, or a department of division

[2] In his basis statement, the Petitioner does not address or contest SCOPS' conclusion that he does not meet the criteria at 8 C.F.R. § 204.5(h)(3)(ii) and (ix), relating to his membership in professional associations and relatively high salary. As such, we consider these issues waived and will not address them further. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021)(citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

thereof, and that the organization, establishment, department, or division has a distinguished reputation. Evidence of a leading role may include a title and matching duties, and should indicate that the petitioner is or was a leader. Evidence supporting a critical role should show that the petitioner has contributed in a way that is of significant importance to the outcome of the organization's or establishment's activities, or those of a division or department. Second, a petitioner must show that the organization or establishment, or department or division thereof, for which the leading or critical role was performed has a distinguished reputation. Factors may include the size, longevity, media coverage, awards, and industry rankings of the organization, establishment, department, or division. *See generally* 6 *USCIS Policy Manual* F.2(b)(1).

When responding to SCOPS' request for evidence (RFE) which sought additional evidence in support of this criterion and others claimed by the Petitioner, he focused on his roles with three organizations. The first of these was his employer at the time he filed his petition, [redacted] Inc. [redacted], where he worked as a global business development manager. The Petitioner asserted that he played a critical role in the merger between [redacted] and [redacted] in that his "post-merger strategy contributed to $400 million in cross-selling revenue synergies and enhanced operational efficiency across EMEA and North America." In support of this assertion, he submitted several reference letters and media articles about the merger. One of these was submitted by D-S-, an assistant professor at [redacted] who also served on the advisory board for one of the Petitioner's start-up company projects. He states that the Petitioner's "analyses and strategic insights played a decisive role in securing board approval for the merger and shaping post-merger strategy." However, D-S- does not indicate that he was employed by either [redacted] or [redacted] at the time of the merger, or explain how he otherwise gained specific knowledge of the Petitioner's role in the merger other than through the Petitioner.

Other letters from those for whom the Petitioner worked during the merger transaction describe his role in a different light. J-B-, an executive with [redacted] states that the Petitioner was "part of one of the workstreams prior to the merger looking into revenue synergy opportunities," and that after the merger the Petitioner worked for his [redacted] team, "reporting to one of my sales leaders." These statements indicate that the Petitioner played a relatively minor role in the merger and in post-merger activities. While J-B- praises the Petitioner's maturity and work ethic, particularly since he was a student working part-time at the time, he does not echo D-S-'s statement concerning the Petitioner's "decisive" role in the merger. Similarly, M-C- was also employed at [redacted] (previously [redacted] at the time of the merger and states that he worked with the Petitioner on a "revenue synergy creation." He states that the Petitioner "showed great resourcefulness in not only finding but also interpreting key data," and that this work "formed the bedrock of the strategy that is in place today." Neither of these letters support the Petitioner's claim to having created "$400 million in cross-selling revenue synergies," nor do they support his assertion that he played a role that was of significant importance to the outcome of the merger of these two multinational corporations. Accordingly, the Petitioner has not shown that he played a critical role for [redacted]

The Petitioner also claimed in his RFE response that he played a leading role for [redacted] a venture he co-founded and for which he serves as CEO and which was selected as a finalist in [redacted] AI Startup Challenge. While those titles would generally suggest a leading role, the record does not include sufficient information about the Petitioner's duties and responsibilities in this role to show that he has acted as a leader. Further, the record does not include evidence that the venture is operational

and has employees for the Petitioner to lead. Notably, a letter from the Petitioner's co-founder states that the venture has secured advisory support from two [redacted] professors, but provides no additional information regarding its progress as a startup company. *See Noroozi v. Napolitano*, 905 F.Supp.2d 535, 544-45 (S.D.N.Y. 2012) (finding that USCIS was reasonable in concluding that playing a leading role for a team presupposes making leadership contributions in relation to teammates.) The Petitioner has not therefore established that the Petitioner has served in a leading role for [redacted] as claimed.

The third organization for which the Petitioner claims to have served in a leading or critical role is [redacted] Here, the Petitioner essentially asserts that through his cumulative activity with and leadership of several venture capital and entrepreneur clubs, organizations, and events within [redacted] he "actively shaped entrepreneurship programming." These included the [redacted] and [redacted], which he served as Vice President. Several reference letters support his leadership and activity in these clubs. For example, C-C-, who also served in a leadership position with [redacted] states that the Petitioner significantly expanded the club's "engagement with founders, investors, and ecosystem builders," which impacted "the broader [redacted] community." Y-L-, who served in a leadership position with the [redacted] at [redacted] writes that the Petitioner was "instrumental in bridging the gap between the EMBA cohort and broader [redacted] membership." And T-M- states that through his creation and leadership of events at [redacted] through the [redacted] and [redacted], the Petitioner "created bridges" between the EMBA and full-time MBA programs at [redacted]

While these reference letters and other evidence in the record shows that the Petitioner served in a leading role for the [redacted] and [redacted] clubs at [redacted], they do not show that he played a leading role for [redacted] as an organization. As noted above, a qualifying leadership role should involve leadership of an organization, and the evidence does not show that the Petitioner, despite having some impact on activities within the EMBA program while he was a student, was in a leadership position or role for [redacted] Also, although the record does show that he served in a leadership role for several student clubs at [redacted] it does not establish that those clubs have a distinguished reputation in the broader field of venture capitalism and entrepreneurship.

For all of the reasons discussed above, the Petitioner has not established that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

B. Final Merits Determination

The Petitioner also challenges SCOPS' decision regarding the criterion at 8 C.F.R § 204.5(h)(3)(v), relating to his claim of having made original contributions of major significance to the field of venture capitalism and entrepreneurship. But because SCOPS granted only a single criterion in its decision, and we have determined that the Petitioner does not meet one of the two criteria he asserts that he meets on appeal, he cannot satisfy the initial evidence requirement of meeting at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3). As the Petitioner is therefore ineligible for classification as an alien of extraordinary ability, we need not reach, and therefore reserve, the issue of whether he meets the criterion at 8 C.F.R. § 204.5(h)(3)(v). *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. 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 they are 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."). Nevertheless, we advise that we have reviewed the record in the aggregate, and conclude that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

**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.