U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43118485

Date: SEP. 4, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a photographer and multimedia artist, seeks classification as an individual of extraordinary ability in the arts. *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 aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id*.

USCIS denied the petition, concluding that the record does not satisfy at least three of the initial evidentiary criteria. 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) 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 individuals 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 their 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 they must provide sufficient qualifying documentation that meets at least three of the 10 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). If a criterion at 8 C.F.R. §§ 204.5(h)(3)(i)-(x) does not readily apply to a petitioner, they may submit comparable evidence to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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 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).

II. ANALYSIS

The Petitioner intends to "continue producing high-end fashion and bridal, and celebrity photography for recognized clients and publications, while contributing to the visual arts field through exhibitions."

USCIS concluded that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (vii) but not those at 8 C.F.R. §§ 204.5(h)(3)(i)-(iii), (v), (viii)-(x), noting that the Petitioner did not assert eligibility under the remaining criteria. On appeal, the Petitioner reasserts that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(iv), (vii), and (ix), but not the other criteria. For the reasons discussed below, the record does not satisfy at least three of the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x).

A. Lesser Prizes or Awards

The criterion at 8 C.F.R § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." Relevant considerations for determining whether a prize or award is for excellence in the field of endeavor include, but are not limited to, the criteria used to grant the prize or award, the national or international significance of the prize or award in the field, the number of recipients of the prize or award, and limitations on competitors. *See generally* 6 *USCIS Policy Manual*, F.2(B)(1), https://www.uscis.gov/policy-manual.

USCIS acknowledged that the Petitioner submitted the following evidence:

- A 2022 Wedding Award from [redacted];
- A 2023 Wedding Award from [redacted];
- A 2024 Wedding Award from [redacted];
- A 2024 [redacted] for Best Still Photography; and
- A 2025 Certificate of Recognition from the [redacted] Texas.

USCIS observed that the record does not establish that any of the prizes or awards the Petitioner submitted are nationally or internationally recognized, such as through publications with national or international audiences reporting on the awards or their recipients. USCIS also noted that the record does not establish that the awards are for excellence in the field of endeavor. Because the record does not establish that any of the prizes or awards the Petitioner submitted are nationally or internationally recognized, and that they are for excellence in the field of endeavor, USCIS concluded they do not satisfy this criterion.

On appeal, the Petitioner states that the record establishes the 2024 '[redacted] recognition for Best Still Photography" satisfies this criterion. He does not claim on appeal that any other prize or award does.

The record contains inconsistent information regarding whether the Petitioner actually received an award for Best Still Photography from the [redacted] The record includes a certified English translation of a document that purports to be a 2024 [redacted] Award for Best Still Photography awarded to the Petitioner, and limited information about the [redacted] Awards. More specifically, the record references the Petitioner's contribution as a member of a film crew who created a short film, which may have been nominated. However, the record also contains information from a website titled [redacted] which lists 20 "Awards & Prizes" given by the [redacted] That list excludes a Best Still Photography award. Thus, the record presents conflicting information regarding whether the [redacted] gives recipients the award the Petitioner claims he received from it. The Petitioner must resolve this inconsistency 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). Here, he does not meet that burden.

Setting that issue aside, the record does not establish that the award in question qualifies as a prize or award for excellence. The record does not clarify what factors the [redacted] considers in deeming still photography to be subjectively the "best," or any other criteria used to grant the award. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The record also does not establish how many other recipients may have received the award in 2024, the number of other entrants competing for the award, any limitations on competitors, or similar factors that may support the conclusion that the award was for excellence in the field of endeavor. *See generally id.*

The record also does not establish that the award is nationally or internationally recognized. An undated document that appears to be a printout of the [redacted] website indicates that tickets to the Festival "are free, as our number one goal as a festival is to give each project maximum exposure" and includes "feedback received by previous festival participants," although this substantially consists of awardees thanking the [redacted] rather than addressing how those not affiliated with the Festival and its awards recognize it, either at a national or international level.

In summation, the record presents conflicting information regarding whether the Petitioner received an award for Best Still Photography from the [redacted] and, to the extent that he did, the record does not establish that the award was for excellence in the field of endeavor and that it is nationally or internationally recognized. Therefore, the record does not satisfy the criterion at 8 C.F.R § 204.5(h)(3)(i).

B. Membership in Associations in the Field

The criterion 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."

USCIS acknowledged that the record includes information about [redacted], which granted membership to the Petitioner on August 25, 2025. However, USCIS observed that neither the [redacted] statutes and admission regulations nor the remainder of the record establishes that [redacted] requires outstanding achievements of its members, and that recognized national or international experts in their disciplines or fields judge prospective members. Because the only association of which the Petitioner claims he is a member does not require outstanding achievements of their members and that recognized national or international experts in their disciplines or fields judge prospective members, USCIS concluded that it does not satisfy this criterion.

On appeal, the Petitioner asserts that [redacted] has "a selective admission process based on merit/achievement." However, he does not claim that recognized national or international experts in their disciplines or fields judge prospective members.

The record contains a certified English translation of [redacted] statutes and admission regulations, which list five minimum membership criteria:

1. Proven professional experience of at least 8 to 10 years, or equivalent achievements of public recognition.
2. Exceptional artistic quality, assessed through a professional portfolio.
3. Recognitions, awards, publications or exhibitions that demonstrate outstanding merit.
4. Verifiable professional recommendations.
5. High standards of professional ethics.

Here, the five minimum membership criteria do not sufficiently establish that [redacted] requires outstanding achievements of its members. The first criterion contemplates "achievements of public recognition," but it does not require such achievements to be outstanding, and those achievements may be substituted with "8 to 10 years" of professional experience, regardless of whether the individual accrued outstanding achievements during that period. The second criterion addresses subjective "artistic quality," not achievements. Although the third criterion focuses on awards or other recognition, it seeks demonstration of "outstanding merit," not outstanding achievements. The fourth criterion considers recommendations from others, and the fifth criterion generally requires professional ethics, without elaborating on how the evaluation committee would objectively determine this.

Further, neither [redacted] statutes and admission regulations nor the remainder of the record establishes that recognized national or international experts in their disciplines or fields judge prospective members. Although the professional evaluation committee composition article contemplates that two of the three or four evaluation committee members will have a "recognized track record," it does not clarify whether they must be nationally or internationally recognized, and whether their records must indicate that they are recognized as experts in their disciplines or fields. In turn, the third mandatory

member is described merely as a "legal representative," without clarifying what entity the legal representative represents and, more to the point, that the legal representative is a nationally or internationally recognized expert in their field. Similarly, the professional evaluation committee composition article notes that, "when applicable," the committee will consult a fourth "external consultant or invited audiovisual producer" to evaluate a prospective member; however, the article does not clarify whether the consultant or producer must be nationally or internationally recognized as an expert in any particular discipline or field.

For the foregoing reasons, the record does not establish that the Petitioner is a member of an association in the field for which classification is sought, which requires outstanding achievements of its members, as judged by nationally or internationally recognized experts in their disciplines or fields; therefore, it does not satisfy this criterion.

C. Published Material About the Alien

The criterion at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished 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." 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). Published material that covers a broad topic may be considered material about the alien relating to the alien's work if it includes a substantial discussion of the alien's work in the field and mentions the person in connection to the work. *See generally id.* Relevant factors include the intended audience (for professional or major trade publications) and the relative circulation, readership, or viewership (for major trade publications or other major media). *See generally id.*

USCIS acknowledged that the record contains several documents without identified authors or dates of publication, and one article that addresses many artists, including the Petitioner, published online by El Pais, dated [redacted] 2025. However, USCIS observed that none of the articles contain a substantial discussion of the Petitioner's work in the field. Moreover, USCIS noted that the lack of either a date of publication or an author for the majority of the documents does not satisfy the plain language of the criterion. And even if the documents otherwise met the criterion's requirements, USCIS further addressed the record's omission of information about intended audiences and circulation data for both those publishers and their competitors, in order to establish whether the publishers qualify as professional or major trade publications or other major media. *See generally id.* Based on those issues, USICS determined that the record does not satisfy this criterion.

On appeal, the Petitioner generally states that the "record contains multiple feature-style items—print/digital features and broadcast segments—where I am the subject or the clearly identified professional discussed," consisting of "substantial discussion within the meaning of the criterion." He submits a document that purports to provide, in relevant part, a summary of circulation data for El Pais and other publications, with lists of internet URLs; however, he does not submit printed copies of the websites that he claims provide this information.

Initially, the Petitioner submitted 10 documents written in a language other than English, with purported English translations that identify the sources as Q'hubo, El Pais, Occidental Magazine, TuBarco News, Diario de Occidente, Telepacifico, and "Reality Show." However, none of the purported translations of these documents are accompanied by certifications that the translations are complete and accurate, and of the competency of the translator(s). "Petitioners and applicants for immigration benefits are required by regulation to provide certified English translations of any foreign language documents they submit." *Matter of Nevarez*, 15 I&N Dec. 550, 551 (BIA 1976) (citing 8 C.F.R. § 103.2(b), now promulgated at 8 C.F.R. § 103.2(b)(3) (requiring that any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation, which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English)). The final determination of whether evidence meets the plain language requirements of a regulation lies with USCIS. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988) (finding that the appropriate entity to determine eligibility is USCIS). Consequently, none of these uncertified, purported translations are probative evidence and they cannot serve to corroborate the Petitioner's claims.[1]

Even setting that aside, the documents also do not satisfy the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iii) because they do not clearly indicate the date of publication and author, as USCIS observed.

In response to USCIS' request for evidence (RFE), the Petitioner submitted publications written in a language other than English, accompanied by certified English translations that identify the sources as El Pais, Diario Occidente, Revista Occidental, TuBarco News, Q'hubo Cali, Telepacifico, and ADN. However, all but one of the publications—as translated into English in the record—omit the date of publication, the author, or both; therefore, they do not satisfy the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iii), as USCIS observed. Because they do not satisfy the plain language of this criterion, we need not address them further.

Among the various publications the Petitioner claims are about him, relating to his work in the field of photography, only one—as translated into English in the record—clearly provides the date of publication and the document's author: an article published by El Pais on [redacted] 2025. However, the substance of the purported translation contains numerous typographical and grammatical errors, which undermine the certification's claim that the translation is complete and accurate. For example, the purported translation states: "A designer , a photographer , a painter and ballet and salsa dancers who They tempt foreigners to visit he country where he talent It abounds ." As another example, it states, "[redacted] 25 years old as dancer and choreographer , 19 years ago from [redacted], and [redacted] with 15 years of experience in he dance , also a dancer in the show [redacted] native ." As a further example of numerous typographical and grammatical errors throughout, the purported translation states:

> [redacted] left [redacted] in in 2003, after eight years of training : "In working-class neighborhoods we didn't have he scope knowing what it was to become in Ballet

[1] In contrast, the Petitioner submitted certifications for other documents' translations, which indicates that he is aware of and understands this requirement.

dancer . At [redacted] I discovered a magic school in the countryside, where teachers like the [redacted] and [redacted] encouraged my passion by he " .

Based on the extent to which the typographical and grammatical errors undermine the certification's claim that the purported translation is complete and accurate, the substance of the purported translation casts doubt on its reliability and sufficiency. *See Matter of Ho*, 19 I&N Dec. at 591 (providing that doubt cast on any aspect of a petitioner's evidence may undermine its reliability and sufficiency, and that of the remainder of the record).

Even if the record contained a reliable and sufficient English translation of the one publication that provides both a publication date and author, the record does not establish that it qualifies as a professional or major trade publication or other major media. The Petitioner states for the first time on appeal, "El Pais newspaper qualifies as 'major media,'" and he claims that "El Pais was founded in 1950 and has maintained 75 years of continuous daily publication, making it the most important newspaper in southwester Colombia." He also summarizes circulation, readership, or viewership data, and he provides website URLs. However, he does not submit the documentary evidence he claims establishes this information, and information outside the record cannot—and it does not—establish eligibility. *See Matter of Chawathe*, 25 I&N Dec. at 376 (providing that petitioners bear the burden of proving their claims are more likely than not true by submitting relevant, probative, and credible evidence); 8 C.F.R. § 103.2(b)(8)(i) (providing that USCIS will approve benefit requests only when the evidence of record—not information outside the record—establishes eligibility); 8 C.F.R. § 103.2(b)(11) (providing that a response to an RFE is considered a request for a decision based on the record at that time). Therefore, the record does not establish circulation, readership, or viewership data for El Pais. Even if the Petitioner's claims about the circulation, readership, or viewership data for El Pais were sufficient, the record does not demonstrate how El Pais' relative circulation, readership, or viewership may qualify it as among major media. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

For the foregoing reasons, the record does not provide qualifying published material about the Petitioner in professional or major trade publications or other major media, relating to his work in the field for which classification is sought; therefore, it does not satisfy this criterion.

D. High Salary or Other Significantly High Remuneration

The criterion at 8 C.F.R. § 204.5(h)(3)(ix) requires "[e]vidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." Websites that provide user-reported salary data may not be valid comparisons of an alien's salary or other remuneration in relation to others in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

USCIS acknowledged that the Petitioner submitted copies of his 2019-23 Colombian tax returns and comparative salary information for photographers in Colombia in general and in [redacted] Colombia, specifically. However, USCIS observed that the Petitioner's tax returns include income from capital gains and rent, which interfered with USCIS' ability to determine the portion of his income derived from photography rather than "income he received as an owner or investor." USCIS further noted that the comparative salary information merely "consists of average wage data rather than high salary data

for photographers," which does not inform whether the Petitioner may have commanded a high salary or other significantly high remuneration for services, in relation to others in the field. Based on those issues, USCIS determined that the record does not satisfy this criterion.

On appeal, the Petitioner reiterates, "Colombian tax returns (2019-2023) and wage benchmarks demonstrate remuneration well above typical photographer compensation in Colombia."

Beyond the issue of whether the Petitioner's 2019-23 Colombian tax returns adequately differentiate between his sources of income in a given year, there are additional deficiencies. The record contains information from four sources: Tulsario, Computrabajo, the Economic Research Institute, and Jobted. The Tulsario information states, "Minimum and maximum salary for a Photographer – from COP $2,278,755 to COP $12,324,908 per month – 2025," but it does not inform what the salary range was for any time period from 2019 to 2023, the years of the Petitioner's tax returns. Similarly, the Computrabajo information reports the average monthly salary for a photographer in Colombia "in the last 12 months" with the "latest update [on] December 6, 2025," although it reports that the monthly *average* was COP $1,671,995 per month, which is substantially less than the *minimum* monthly salary of COP $2,278,755 reported by Tulsario. The Economic Research Institute information was "Last updated: December 12, 2025," but it does not clarify the period(s) in which it reports the average photographer salary in [redacted] Colombia. Likewise, the Jobted information is copyrighted 2013-25, but it does not elaborate on what period(s) it reports the average monthly salary for photographers in Colombia, which we note is even less than that reported by Computrabajo. Here, the Petitioner must resolve these inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-92.

Even if the wage information sources reported what the salary or other remuneration for services others in the field received during the years for which the Petitioner submitted his Colombian tax returns, which they do not, and even if they were consistent, which they are not, the wage surveys are overly broad and they rely on flawed methodology, which further reduce their probative value. The wage information notes that photographers' salaries vary substantially based on factors such as the individual's level of professional experience and areas of expertise, such as fashion photographers, wedding and event photographers, advertising photographers, scientific photographers, still photographers, photojournalists, aerial photographers, photographic directors, etc. Therefore, the broad generalization of all photographers, averaging all salaries among all levels of experience and specializations, obscures what the salaries or other remuneration of photographers with experience and specialization(s) similar to the Petitioner were, whether in 2025 or during the years addressed by his Colombian tax returns, 2019-23. In turn, the wage surveys' methodology relied on "salary survey data collected directly from employers and anonymous employees in [redacted] Colombia" and generalized "sources obtained from companies, users and employees in the last 12 months." The wage surveys do not establish that their methodology objectively determined what photographers' income actually was during any particular period, as opposed to relying on partial, selective, and self-reported data. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

In summation, the record does not establish whether the Petitioner commanded a high salary or other significantly high remuneration for services, in relation to others in the field, during the same period of time and at the same level of experience and specialization; therefore, it does not satisfy this criterion.

For the foregoing reasons, the record does not satisfy at least three of the initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3).

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. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

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.