U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37461240

Date: SEPT. 8, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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.

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner had not established that he met the initial evidence requirement for this classification through evidence of either a one-time achievement or that he meets three of the alternative 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.

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 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 achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or 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 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 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

Because the Petitioner has not indicated or established that he has 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 initially claimed to have met five criteria, summarized below:

- (ii), Memberships in associations in the field;
- (iv), Participation as a judge of the work of others in the same or an allied field;
- (v), Original contributions of major significance in the field;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), Commanding a high salary or other significantly high remuneration for his services.

In denying the petition, SCOPS determined that the Petitioner satisfied two criteria, specifically, (ii), memberships in associations in the field, and (iv), participation as a judge of the work of others. However, for the reasons discussed later, we do not agree with SCOPS that the Petitioner meets the evidentiary criteria relating to (ii), memberships in associations in the field. On appeal, the Petitioner continues to assert that he meets the evidentiary criteria relating to (ix), commanding a high salary or other significantly high remuneration.[1] Upon de novo review, the record does not reflect that the Petitioner meets the requirements of at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3).[2]

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[1] In his appeal brief, the Petitioner asks this office to "reconsider" SCOPS' finding that he did not meet the original contributions criterion at 8 C.F.R. § 204.5(h)(3)(v) and the leading or critical role criterion at 8 C.F.R. § 204.5(h)(3)(viii). The Petitioner does not specifically identify any erroneous conclusion of law or statement of fact with respect to SCOPS' findings regarding these criteria. *See Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (declining to address a "passing reference" to an argument in a brief that did not provide legal support). Therefore, on appeal, the Petitioner has not overcome SCOPS' determination on these issues.

[2] While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

A. Membership in Associations in the Field

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." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields."

The Petitioner claims eligibility for this criterion based on his election as a fellow with the [redacted]. In support, he provided certifications and a letter from D-E-[3], Chief Executive of [redacted] confirming his election in June 2023, along with [redacted] Membership Handbook and bylaws. According to the Membership Handbook, candidates for fellow must either: 1) have made outstanding contributions in aerospace or aerospace-related profession, or 2) have attained a position of high responsibility in an aerospace or aerospace-related profession. In other words, an individual may be elected as a fellow based upon their level of employment and not because of outstanding achievements.

Furthermore, the Petitioner has not established that recognized national or international experts judge the individuals seeking to be elected as fellows. According to [redacted] Membership Handbook, all membership decisions are determined by majority votes of the Membership Committee members "after all opinions have been considered but the Chair (or the vice Chair in the Chair's absence) have a deciding vote, if necessary." However, the Petitioner did not submit supporting documentation to establish that the members of the committee, or the Chair or vice Chair, if applicable, are recognized national or international experts in their disciplines or fields.

It is the Petitioner's burden to establish that he meets all elements of this criterion and he has not done so here. Therefore, we withdraw SCOPS' decision to the contrary.

B. High Salary or Other Significantly High Remuneration

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for "evidence that the alien has commanded a high salary, or other significantly high remuneration for services, in relation to others in the field." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. Comparative wage or remuneration data that is appropriate for the alien's occupation and location should be submitted to establish that their compensation is high relative to others working in the field. *See generally 6 USCIS Policy Manual F.2(B)(1)*, www.uscis.gov/policy-manual.

Regarding the criterion of "high salary," the Petitioner claims eligibility based on his salary with [redacted], an airline in the United Arab Emirates (UAE). He states that in this position, he earned a monthly salary of 60,090 dirhams monthly (approximately $16,000), equating to an annual salary of approximately $196,000. In support of this claim, the Petitioner submitted, in part, pay vouchers documenting this salary.

[3] We use initials to protect the privacy of the referenced individual.

In support of his assertion that his salary as a pilot for [redacted] was high relative to others in the field, the Petitioner submitted an unsourced document, which he contends reflects the "historical salary received" by [redacted] pilots. Upon review, the document demonstrates only that the Petitioner's salary corresponded to the established pay scale, rather than evidencing that he earned a "high salary" in relation to others in the field. Specifically, the document indicates that pilots with 30 years of experience earn 60,090 dirhams, consistent with the amount reflected in the Petitioner's pay vouchers. Accordingly, the evidence does not establish that the Petitioner received a high salary compared to others in his field, but rather that he was compensated at the standard rate provided to all [redacted] pilots with comparable years of service. Likewise, the unsourced "[redacted] Salary Scale (2018-2021)-amended" submitted by the Petitioner similarly fails to establish that his salary was unusually high, as it places his salary at step 30 of the scale, while [redacted] pilots at step 35 make nearly 70,000 dirhams--10,000 dirhams above the Petitioner's base pay. Furthermore, the "Airline Pilot Salary Comparison," article submitted by the Petitioner acknowledges that the Middle East is currently the highest-paying region for airline pilots, with the UAE among the top-paying countries; however, the article does not cite a source for its stated salary range of 200,000 to $300,000 annually. Significantly, the Petitioner's base salary falls below the lower end of that range.[4]

The Petitioner must present evidence of objective earnings data showing that he has commanded a "high salary" or "significantly high remuneration" in comparison with those performing similar work during the same time period. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713–14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444–45 (N.D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he meets this criterion.[5]

In this case, the Petitioner has not demonstrated that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner to 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*, --

[4] While we acknowledge that the Petitioner claims that he received "significantly high remuneration" while employed with [redacted] the record does not include any documentation to establish that his renumeration was in fact "significantly high" relative to others working in his field.

[5] While the Petitioner also submitted wage data for pilots working in other countries and for other international airlines as "comparative analysis," U.S. Citizenship and Immigration Services (USCIS) evaluates persons working outside of the United States based on the wage statistics or comparable evidence relevant to the applicable work location. *See generally* 6 USCIS Policy Manual, supra, at F.2(B)(1).

F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 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) (per curiam) (holding 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.