U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39401958

Date: SEPT. 16, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an international trade specialist, seeks classification as an individual 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 that the record did not establish that the Petitioner meets 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. SCOPS further determined that the Petitioner has not established that his entry will substantially benefit the United States. 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,
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> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
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> (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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is 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.

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 six criteria, summarized below:

- (ii) Membership in associations in the field;
- (iii) Published material about the alien in professional or major media;
- (iv) Participation as a judge of the work of others;
- (vi) Authorship of scholarly articles in the field;
- (vii) Display at artistic exhibitions or showcases; and
- (viii) Leading or critical role for distinguished organizations or establishments.

In denying the petition, SCOPS determined that the Petitioner fulfilled two of the initial evidentiary criteria, participation as a judge of the work of others and authorship of scholarly articles in the field at 8 C.F.R. § 204.5(h)(3)(iv),(vi). On appeal, the Petitioner maintains that he also meets three additional evidentiary criteria, under 8 C.F.R. § 204.5(h)(3)(ii),(iii),(viii), which will be discussed below.

A. Evidentiary Criteria

1. 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." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained outstanding achievements in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

In the denial notice, SCOPS stated that the Petitioner's membership in the [redacted] (the association) does not meet this requirement because the association's bylaws do not state they require outstanding achievements or use recognized national or international experts to determine which individuals qualify for membership. On appeal, the Petitioner asserts that the bylaws indicate that prospective members must submit a scholarly paper to prove their expertise in the field and this paper must be approved by the association. He further contends that he submitted letters from the former President and current Vice President of the association, which explain that outstanding achievements are required for membership in the field.

In order to meet this criterion, a petitioner must show that membership in the association requires outstanding achievements in the field for which classification is sought, as judged by recognized national or international experts. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Here, the Petitioner has not demonstrated that he has satisfied this element. The [redacted] bylaws (titled, "Statutes of the [redacted]) state that individuals are eligible for membership if they are [redacted] Although the Petitioner asserts that the association's "bylaws indicate that prospective members must submit a scholarly paper to prove their expertise in the field," this is not required in the provided bylaws for membership. Instead, the bylaws state that "honorary members" are granted such status "due to their high merits in teaching, published works or professional work performed in the country or abroad." The Petitioner has not indicated or submitted evidence to demonstrate that he is an honorary member of the association, or that he otherwise holds a membership status that requires outstanding achievements in the field.

The letters from the president and vice president of the [redacted] also do not show how membership in the association requires outstanding achievements in the field. The letter from [redacted] Vice President of the association provides that "the Board of Directors, will study, as the first evaluating jury, the outstanding achievements of that person in the field of specialization, to be able to decide whether or not to submit to the approval of the rest of the members." However, the letter does not explain the criteria for finding that an individual has "outstanding achievements." As discussed above, "outstanding achievements" is not a requirement in the bylaws of the association, which only require a law license, specialization in tax law, and three years of practice in tax law for membership. We note that a level of education and years of experience in a particular field do not alone result in a conclusion that a person's membership in an association was based on outstanding achievements. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Likewise, the letter from [redacted] former President of the association, does not show that membership requires outstanding achievements in the field. [redacted] letter states that the Petitioner was admitted to the association after being nominated by two members and having complied with the bylaws, and it recognizes the Petitioner's "work and contributions to the national doctrine on

Customs matters and of International Trade." But the letter does not further indicate that a significant contribution to the field or other outstanding achievement is a requirement for membership.

For the reasons discussed above, the Petitioner has not established that he fulfills this criterion.

2. Published material about the alien

The regulation 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." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.* The published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work). Professional or major trade publications may be identified by their intended audience, while other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1).

SCOPS determined that the article the Petitioner submitted to meet this criterion titled, [redacted] published in the *Soluciones*, contains a quote from the Petitioner but is not primarily about the Petitioner and his work in the field. On appeal, the Petitioner asserts that the article features his interview on the television program, *Soluciones*, broadcast on Globovision, Venezuela's most watched television network. He further claims that the title of the interview was [redacted] and he was one of the two specialists referenced in the title.

Upon review of the submitted evidence, we agree with SCOPS's determination. The Petitioner submits an article and related transcript of his interview discussing customs law on the television program *Soluciones*, broadcast on Globovision. However, this evidence is not sufficient to show that his appearance amounted to published material about him, relating to his work, rather than commentary or advice regarding topics within his area of expertise. For example, the article states that the Petitioner is a "lawyer specializing in customs law" and he "pointed out in Solutions that when making the transformation in the Law, opinions of those involved in the sector were not taken into account." Additionally, the transcript of the interview contains commentary on customs law and procedures in Venezuela but does not mention the Petitioner and his work. As a result, the Petitioner has not established that he was the subject of news coverage relating to his work, rather than a commentator providing his opinions on customs law reform. Although this criterion may be met if the published material covers a broader topic and includes a substantial discussion of the person's work in the field, that is not the case with this material. *See generally* 6 *USCIS Policy Manual, supra, at* F.2(B)(1). The Petitioner has not established that the content of his television interview is published material about him and relates to his work as an international trade specialist. For this reason, the Petitioner has not shown that he meets this criterion.

3. Leading or critical role for distinguished organizations or establishments

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." The

role may be shown to be leading or critical for a division or department of an organization or establishment, or for the organization or establishment overall.

In finding that the Petitioner does not meet this criterion, SCOPS stated that the Petitioner submitted letters, which discuss his roles as an editorial committee member and a professor, but the letters do not demonstrate that his roles were leading or critical. SCOPS also found that the submitted evidence does not demonstrate that the organizations or establishments where the Petitioner held these roles have distinguished reputations. On appeal, the Petitioner asserts that the evidence he presented shows he had a leading or critical role with the [redacted] He further asserts that these organizations have distinguished reputations.

In evaluating evidence under this criterion, officers first examine whether the role is or was leading or critical. Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). For a critical role, evidence should show that the alien has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *Id.* Upon review of the record, we find that the Petitioner does not meet this element, as discussed in detail below.[1]

a. [redacted]

On appeal, the Petitioner asserts that SCOPS failed to recognize how his "work substantially impacted this Association as a whole." He claims that based on the totality of the evidence, "including [his] judgement of work for the Association's flagship academic journal and coordination of the Association's Symposium, it is more likely than not that he played a leading or critical role within the organization."

As supporting evidence to demonstrate his critical or leading role with the [redacted] journal, the Petitioner submitted two letters from [redacted] coordinator of the editorial committee for the association's publication, the Tax Law Review. The first letter from [redacted] provides, in pertinent part:

> [The Petitioner] has been working in the Editorial process of the Tax Law Review and achieved several improvements for the publication, obtaining important increases in the technical content and circulation of the magazine and renovating the process for scientific analysis in order for the articles to keep the high standards that have characterized the Tax Law Review for the last 40 years.

The second letter from [redacted] provides in pertinent parts:

[1] Because the Petitioner has not established that he has held a leading or critical role with any of the named organizations or establishments, we need not determine whether any of them have a distinguished reputation.

> [T]he Editorial Committee, has among its functions, to evaluate each and every one of the submitted tasks, with the desire to be published in the aforementioned Tax Law Magazine. This role of juries, which the Editorial Committee pursues, is a panel of experts, which has led to national and international recognition.
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> . . .
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> [The Petitioner] was jury in this panel of experts who evaluated all the papers that were submitted for publication, throughout the period during which he was part of this Editorial Committee. His extensive knowledge in matters of Customs and International Trade, was invaluable for us.

[redacted] nor the Petitioner explain whether the latter had a "leading" or "critical" role as the editor of the Tax Law Review or as a member of its editorial committee. For a leading role, the Petitioner should establish that he was leader within the organization or establishment or a division or department. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). The Petitioner has not provided an organizational chart or any other information to show that his role on the panel of experts for the editorial committee of the Tax Law Review is a leading role at the [redacted] or its division(s) or department(s) overseeing this publication. Additionally, the letter does not contain detailed and probative information to demonstrate how his role as an expert in customs and international trade was of significant importance to the outcome of the association's activities, as required for a critical role. *Id.*

The Petitioner also has not shown that he had a leading or critical role as the coordinator of the [redacted] symposium. As evidence to support this claim, the Petitioner submitted a letter on the [redacted] letterhead from [redacted] However, the letter is written in a foreign language, and the English translation of this letter appears to be a summary and is not certified. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. *Id.* SCOPS notified the Petitioner of this deficiency in a request for evidence (RFE) and provided an opportunity for the Petitioner to submit a certified English translation of the document, but the Petitioner did not provide this in his RFE response. Because the Petitioner did not submit a properly certified English language translation of the document, as required, we accord it no weight as we cannot determine whether it supports his claim.

b. [redacted]

The Petitioner also asserts that he has established his leading or critical role with the [redacted] based on his "judgement of dissertations, theses, and other faculty members' work." The Petitioner specifically references as supporting evidence a letter from [redacted], which provides:

> [The Petitioner] was appointed as a liaison professor for the academic period 2015-2016, at [redacted]

[redacted], academic institute dedicated to the area of Rent, Customs, Foreign and international trade, and that he effectively practiced this work.

[The Petitioner], in that period, was in charge of supervising and evaluating each of the professors in the area of International Trade, the programs they applied, their teaching methods, as well as the reports they had to submit to the coordination that I directed.

The main function, exercised by [the Petitioner], led the coordination he directed into correcting the programmatic content of various subjects, some professors' teaching methods, explaining the development of International Trade institutions, as well as promoting new ideas, through talks and seminars, in order to establish institutions and doctrines within the area of International Trade, due to the novelty of the thoughts he proclaimed, established and wrote.

(errors in original).

At the outset, we note that this letter is of limited probative value because it is not on letterhead and does not contain the title of the author.[2] Aside from having little evidentiary weight, the letter itself does not show that the Petitioner had a leading or critical role with this educational institution. As stated, evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(1). Here, the Petitioner's title as "a liaison professor" does not indicate that the Petitioner had a leading role for the school. For a critical role, evidence should show that the alien has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *Id.* The Petitioner has not demonstrated how his role as a liaison professor, supervising and evaluating other professors teaching international trade, was of significant importance to the outcome of the school.

c. [redacted]

Regarding his claimed role with the [redacted] the Petitioner asserts that SCOPS "failed to include an analysis of this role in the final record, a clear error of law and a violation of Service policy under the APA." Because the Petitioner does not further indicate on appeal how the record establishes that he had a leading or critical role at this organization, we turn to the brief submitted with his initial filing. In his initial statement, the Petitioner asserted that his evidence, consisting of a letter from [redacted] Coordinator of the [redacted] and two letters from [redacted]

[2] The record contains another letter from [redacted] which has his title and is on letterhead. However, this letter is written in a foreign language and does not have an accompanying certified English translation. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. *Id.* SCOPS notified the Petitioner of this deficiency in a RFE and asked the Petitioner to provide a certified English translation of the document, but the Petitioner did not provide this in his RFE response. Because the Petitioner did not submit a properly certified English language translation of the document, as required, we accord it no weight as we cannot determine whether it supports his claim.

[redacted] Head of the [redacted] show that he contributed to the organization in a manner that was of significant importance to the outcome of the organization.

Upon review of the record, we find no error in SCOPS's decision. The record shows that SCOPS reviewed the letters and in an RFE notified the Petitioner that the letters cannot be considered because they are in a foreign language and do not have certified English translations. The Petitioner, however, did not provide certified English translations of these letters in response to the RFE. As previously stated, any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that they are competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit properly certified English language translations of the letters, as required, we accord them no weight as we cannot determine whether they support his claim. The Petitioner has not provided any other evidence to show how his role with the [redacted] meets this criterion.

Based on the foregoing, the Petitioner has not established that he meets this criterion.

III. CONCLUSION

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 lesser criteria, as required under 8 C.F.R. § 204.5(h)(3).[3]

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*, -- 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).[4]

[3] Although we did not discuss each piece of evidence submitted, we reviewed the entire record and based the decision on the relevant documentary evidence.

[4] SCOPS also determined that the Petitioner has not established that his entry will substantially benefit prospectively the United States. Because the Petitioner has not demonstrated eligibility under section 203(b)(1)(A)(i) of the Act, we need not render a determination regarding whether his entry into the United States will substantially benefit prospectively our nation. *See Job v. Jaddou*, No. 4:22-CV-03017, 2024 WL 2963795, at *4 (S.D. Tex. June 12, 2024) (upholding a determination of whether the plaintiff would substantially benefit prospectively the United States was not needed because the plaintiff did not establish sustained national or international acclaim).

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.