U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39875780

Date: SEPT. 19, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a financial accountant, 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.

SCOPS denied the petition, concluding that the Petitioner did not meet the initial evidentiary requirements for this classification through presentation of evidence of either a one-time achievement or showing that she meets at least three of the alternative evidentiary criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x). The matter is now before us on appeal.

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 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 ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, published material in certain media, and authorship of scholarly articles).

Where a petitioner meets these initial evidentiary 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

SCOPS concluded that the Petitioner did not establish she received a major, internationally recognized award. On appeal, the Petitioner has not specifically challenged this finding, she has therefore waived this claim. *See, e.g.*, *Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009). As such, to meet the initial evidentiary requirements, the Petitioner must present evidence that satisfies at least three of the regulatory criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x). In the decision denying the petition, SCOPS determined that the Petitioner had satisfied the criteria for published materials and authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(iii), (vi).

Without explaining its reasoning, SCOPS stated that the Petitioner met the criterion for published material at 8 C.F.R. § 204.5(h)(3)(iii). In our de novo review of the record, we determine that the Petitioner has not met this criterion. The Petitioner highlights articles in the *Punch* and the *Nigerian Tribune* newspapers that discuss her work, her research and the role of financial technology tools. 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." 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). *Id.* Here, the articles address the Petitioner's work but are not written about the Petitioner. *See Kinuthia v. Rosenberg*, No. CV 17-10255-LTS, 2018 WL 1243955, at *5 (D. Mass. Mar. 8, 2018), *aff'd sub nom.*, *Kinuthia v. Velarde*, No. 18-1244, 2019 WL 11671989 (1st Cir. July 3, 2019), *cert. denied*, 140 S. Ct. 2643, 206 L. Ed. 2d 714 (2020) (finding it is not enough that the material merely relates to the applicant's work). The record lacks evidence that the other articles submitted in support of this criterion are major trade or other major media. For example, *ThisdayLive* is ranked number 192 in Nigeria, and the Petitioner submitted an article explaining that *This Day Newspaper* had a circulation of 100,000 copies and in 2020 a monthly readership of 287,000 readers, but did not include information as to how this

readership compares to other publications and whether it is considered major media. As such we disagree with SCOPS' conclusion and withdraw the determination that the Petitioner meets this criterion.

On appeal, the Petitioner maintains that she also meets two additional evidentiary criteria, which we will discuss below.

> *Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

Regarding the leading or critical role eligibility, USCIS first determines whether a petitioner has performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. A leading role means that a petitioner is (or was) a leader within the organization, establishment, division, or department. *Id.* In contrast, a critical role means that a petitioner "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.*

USCIS next determines whether the organization, establishment, department, or division for which a petitioner holds or held a leading or critical role has a distinguished reputation. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. The word "distinguished" means "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Merriam-Webster Online Dictionary*, www.merriam-webster.com. Relevant factors include not only the relative size or longevity of an organization but also other information such as the scale of its customer base or relevant media coverage. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8.

The Petitioner offers evidence showing that she was the Team Lead for Group Financial Reporting and Team lead for Financial Reporting for [redacted] a subsidiary of [redacted] In a letter of recommendation submitted by the Group Chief Technical Officer for [redacted], he explains that the Petitioner's impact extends beyond financial management and she "has played a key role in shaping the company's investment strategies and financial reporting and conducting comprehensive financial analysis that has supported decision-making processes on major projects." On appeal, she asserts that the evidence in the record details how her performance has gone "over and above" what is normally expected of someone in her position. However, the letter from [redacted] does not explain what the Petitioner's key role was or the effect of the Petitioner's work had on the investment strategy and how it has supported decision-making processes on major projects such that the Petitioner's role was critical to the project. Although the letter does indicate that the Petitioner's "effective management of such a significant portion of [redacted] assets has been pivotal to the company maintaining its leading position in the energy sector", the letter lacks detail as to how the Petitioner's role was critical to maintaining that position.

Without specific, detailed information, M-M-'s general letter does not show the Petitioner's leading or critical role.[1] Moreover, repeating the language of the statute or regulations does not satisfy the

[1] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that this is one criterion where letters from persons

petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990); *Avyr Assocs., Inc. v. Meissner*, No. 95 CIV. 10729 MBM, 1997 WL 188942 at *5 (S.D.N.Y. Apr. 18, 1997).

Upon review, we disagree with SCOPS' conclusion regarding the Petitioner's leading role with [redacted] Limited, as the record supports the Petitioner's claims that she served in a leading role for this organization, however, we agree that the Petitioner has not met this criterion. The letter of recommendation the Petitioner referenced in response to the request for evidence (RFE) from [redacted] Limited explains that the Petitioner's role was critical to the company's success. The writer notes that the Petitioner "accurately predicted a market dip due to emerging economic indicators and advised the company to adjust its asset allocations. This move saved the Company a significant amount in potential losses, further showcasing her sharp analytical skills and dedication to the Company's financial health."

Although the Petitioner has demonstrated that she played a critical role in this organization, the record lacks sufficient evidence to conclude that this company has a distinguished reputation. To support its reputation, the Petitioner submitted information about the company from its website, an article detailing the upgrade of the company to Bbb, recognition as [redacted] information regarding the Securities and Exchange Commission (SEC) licensure, and evidence of the company's subsidiary relationship to [redacted]. The Petitioner contends that because [redacted] Limited has a Bbb rating, received an award for its trustee services, and has a relationship with the larger [redacted], it is distinguished. But the record does not demonstrate the significance of the award, nor does it indicate the scale of the company, the overall excellence in the field and contains insufficient evidence of media coverage about its reputation or distinction in the field of trustee services.

The Petitioner has not demonstrated her performance in a leading or critical role for an organization with a distinguished reputation. We will therefore affirm SCOPS determination on this evidentiary requirement.

> *Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.* 8 C.F.R. § 204.5(h)(3)(ix).

On appeal, the Petitioner maintains that she satisfies this criterion. The evidence, however, is insufficient to show that she has commanded a high salary or other significantly high remuneration for her services as a financial accountant in relation to others in the field.

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

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with knowledge of the significance of the person's leading or critical role can be particularly helpful to officers in making this determination, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization, establishment, division, or department was leading or critical).

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.

In support of this criterion, the Petitioner provided a letter from her current employer detailing her salary and her position as a financial accountant, pay vouchers, information from Glassdoor, Payscale and mysalaryscale that indicate average salaries for accountants and financial accountants. In response to the RFE, she contends that the salary surveys submitted with the petition demonstrate that her salary is "already many times higher than the national average for a financial accountant" and that her salary is "far above the typical 90th – percentile worker." The Glassdoor Salary survey for financial accountants is based on 38 salaries submitted, a very limited number of salaries in a country as large as Nigeria. USCIS Policy Manual indicates that the survey utilized must be valid and notes that some "websites provide user-reported salary date, which may not be a valid comparison if, for example, too few users reported their salaries…" *See generally* https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2.

The record also contains salary information for accountants from Payscale and MySalaryScale. The Petitioner however, is a financial accountant and there is no evidence indicating these two position are the same. The salary data from these two surveys is not for the same position that the Petitioner currently holds. Because the comparative data the Petitioner provided in these two surveys does not apply to the position she actually held, the Petitioner has not provided sufficient evidence to show that she commanded a salary that was high relative to others in her field. For the reasons discussed above, the Petitioner did not show she meets this criterion.

For the above-stated reasons, of the claimed criteria, the Petitioner has demonstrated that she met one of the criteria. She has not shown that she satisfies the criterion related to published materials, leading or critical roles, or high salary at 8 C.F.R. § 204.5(h)(3)(iii), (viii) and (ix). Accordingly, we conclude that the Petitioner has not met three of the initial evidentiary criteria, as required.

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 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).

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.