U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41693792

Date: APR. 06, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a competitive swimmer, 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 record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that she met at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal. 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 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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The Petitioner is a competitive swimmer at the [redacted]. Because the Petitioner has not indicated or established that she received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS determined the Petitioner satisfies two of the ten criteria listed in the regulations, relating to membership and published materials. On appeal, the Petitioner asserts she meets the evidentiary criteria relating to awards and leading or critical role.[1] For the reasons discussed below, the Petitioner does not demonstrate she meets at least three categories of evidence. [2]

A. Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

[1] Although the Petitioner previously claimed to meet the criteria relating to membership and commercial success, she does not contest SCOPS' decision relating to these criteria on appeal or otherwise refer to them in her appeal brief. An issue not raised on appeal is waived. *See, e.g., 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)).

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

SCOPS determined that the Petitioner did not satisfy this criterion. However, upon review, the record contains sufficient documentary evidence to establish that the Petitioner received nationally and internationally recognized awards from competitive swimming events, and SCOPS's determination on this issue will be withdrawn. For example, the Petitioner provided documentation showing that she received silver and bronze medals at the 2023 [redacted], and a bronze medal at the 2019 [redacted].

Therefore, the Petitioner has established that she meets this criterion, and we withdraw SCOPS' conclusion to the contrary.

B. Memberships

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.

The Petitioner asserts she meets this criterion as a member of the [redacted]. Being a member of a national team may demonstrate eligibility for this criterion, as such teams typically limit their number of members and have a rigorous selection process. However, it is the Petitioner's burden to demonstrate that she meets every element of a given criterion. We will not assume that every national team is sufficiently exclusive and requires outstanding achievements of its members as judged by recognized national or international experts in their fields or disciplines.

Here, the record includes evidence that the Petitioner was selected to represent Great Britain (GB) at the 2019 [redacted] and the 2019 [redacted]. The Petitioner provided the Selection Policy document from British Swimming, which states under "Selection Event" that "[s]elections will be made from performances at the 2019 [redacted], [redacted], 16th -21st April 2019 ("[redacted]"). The document also indicates under "Team Size," "Individual Event Selection" and "Relay Event Selection" that the Head of Elite Development has complete discretion to select swimmers. According to this document, the Petitioner qualified for the national team as a result of her performance at the 2019 [redacted]. However, the record contains no evidence of the Petitioner's competition results in [redacted] or that she even attended the competition. Moreover, the Petitioner does not offer any information about the Head of Elite Development to demonstrate that they are recognized national or international experts in their fields. The Petitioner provided a printout from Aquatics GB (formerly British Swimming) website, which lists their Senior Management Team, but there is no mention of the Head of Elite Development.

In addition, the Petitioner submitted three letters from coaches. The Team GB Olympic Coach states that the "selection criteria for British Swimming's international teams are exceptionally rigorous, requiring athletes to meet published qualifying times, achieve top national rankings, and demonstrate consistent medal-winning performances at the highest levels of domestic and international competition." In

addition, the letter from the High-Performance Coach at Swim Wales High-Performance Centre states that the Great Britain National Swimming Team's "[s]election is based on a formal process governed by British Swimming, and requires athletes to demonstrate exceptional ability through their results at the Aquatics GB Swimming Championships" and that the results are "reviewed against the Selection Policy for the World and European Junior Championships." The High-Performance Coach further states that "[w]here selection discretion is used, it is limited to swimmers judged by national leadership to be of future Olympic potential," which includes the Performance Pathway Lead and GB Head Coach. But the Petitioner has not provided evidence to establish that the Performance Pathway Lead and GB Head Coach are recognized national or international experts in their fields.

We therefore withdraw SCOPS' finding that the Petitioner satisfied this criterion.

C. Published Materials

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* F.2(B)(1).

In support, the Petitioner submitted five articles from *SwimSwam*. Two articles do not identify an author and do not include the required date. Another article does include the date but not the author. *Kumar v. Dir. of U.S. Citizenship & Immigr. Servs.*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024) (upholding plaintiff's evidence did not include the required title, date, or author). Further, most of the articles show competition results where the Petitioner is briefly mentioned in a sentence or two. *Javakhadze v. Mayorkas*, No. 3:21-CV-00617-E, 2023 WL 8037730, at *6 (N.D. Tex. Nov. 20, 2023) (upholding USCIS' determination that the published materials discussed the outcomes of various competitions, mentioning the plaintiff in passing as it related to competition results).

Furthermore, the Petitioner does not demonstrate that this publication rises to the level of major media. The record includes a printout from *SimilarWeb*, which indicates "Total visits" of 1.798 million in August 2025. However, the Petitioner has not explained how this statistic supports a determination that *SwimSwam* qualifies as "major media" by having a high circulation or distribution relative to other online publications. Evidence of published material in major media publications about the Petitioner should establish that the circulation (online or in print) or viewership is high compared to other statistics and identify the intended audience. *See generally 6 USCIS Policy Manual* F.2(B)(1). Here, the record does not contextualize those statistics, indicate their significance, or elaborate on how that information could establish that the website is the type of major media contemplated by 8 C.F.R. § 204.5(h)(3)(iii). Moreover, given the lack of information regarding the intended audience of *SwimSwam*, the record does not establish that it is a professional or trade publication.

Therefore, we also withdraw SCOPS' finding that the Petitioner satisfied this criterion.

D. Role

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. 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. 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. In determining whether the organization or establishment, or a department or division thereof, has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *See generally 6 USCIS Policy Manual* F.2(B)(1).

The Petitioner claims eligibility for this criterion based on her leading and critical role as a team captain for the [redacted]. The record includes detailed letters from the head coach and assistant head coach of the [redacted] discussing the Petitioner's leading and critical role as team captain. Moreover, the record includes evidence of the team's distinguished reputation. Based on this evidence, the Petitioner has sufficiently demonstrated that she performed in a leading and critical role for a distinguished swimming program as team captain. Accordingly, we withdraw SCOPS' conclusion to the contrary.

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 she 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*, -- 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).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability.

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 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.