U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41592986

Date: APR. 17, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a visual artist, 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.

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) 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 international recognition of his or her 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 he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria 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

The Petitioner is a visual artist who specializes in prop design and fabrication for the film and television industry. At the time of filing, she was a property assistant intending to continue her work in the United States to become a property master and a production designer.

A. One-Time Achievement

On appeal, the Petitioner does not address SCOPS' analysis concluding that she did not demonstrate international recognition for achievements in her field through receipt of a major, internationally recognized award. We consider the Petitioner's prior claims not raised or contested on appeal to be abandoned. 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)).

B. Evidentiary Criteria

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 that the Petitioner satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(vii), which concerns the display of work in artistic exhibitions or showcases, but that she did not meet any of the other claimed criteria. On appeal, the Petitioner asserts that she meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii) and (ix).

1. Prizes or 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* at F.2(B)(1), www.uscis.gov/policy-manual.

On appeal, the Petitioner asserts that SCOPS discussed certain awards only in the context of whether they demonstrated a one-time achievement under 8 C.F.R. § 204.5(h)(3), rather than also as lesser awards under 8 C.F.R. § 204.5(h)(3)(1). Review of the decision shows that SCOPS did not include several awards in its analysis of lesser awards. We will analyze the evidence for those awards here.

The record shows that the Petitioner worked as a property assistant for a film released in 2022 that received several award nominations for production and costume design. The film was nominated by the [redacted] for [redacted] and [redacted] She acknowledges that, although "nominative rather than a win," she satisfies the criterion based on these nominations because the "statute specifies 'award' without distinguishing wins/nominations." The plain language of the regulation, however, requires "receipt" of prizes or awards. A nomination that did not result in receipt of a prize or award does not satisfy the regulatory requirements for the criterion.

The record shows that a television series that the Petitioner was involved with received several awards, including [redacted] from the [redacted] in 2022 and 2023. On appeal, the Petitioner asserts that eligibility under this criterion includes consideration of awards granted to teams.[1] The record, however, does not include evidence of whether that award is nationally or internationally recognized. In addition, while the Petitioner may have worked as part of a team for the set design for the series, she is not listed as one of the recipients of the awards.

Nothing precludes the person from relying on a team award, provided the person is one of the recipients of the award. However, in general, qualifying awards include team awards where each member receives a trophy, certification, or medal; appears on the podium or stage; or is specifically named in the awarding organization's announcement of the award selection.[2] The [redacted] for 2022 names as the recipients the set decorator and the production designer, and these same individuals, along with another production designer, are listed as recipients for the award in 2023. The Petitioner is not listed as a recipient of the [redacted] for 2022 or 2023. The Petitioner also highlights the series' receipt of a [redacted], but the record shows that the recipients were several executive producers, rather than the Petitioner. The record does not include evidence sufficient to demonstrate that these awards are qualifying awards received by the Petitioner.

Additional awards received by this television series include a [redacted] and an award from the [redacted] for [redacted]. The aforementioned 2022 film also received an award from the [redacted] for [redacted], as well as a [redacted] for [redacted]. These awards recognized the collective efforts involved in creating the film and the television series. Again, while an award granted to a team may qualify, the Petitioner must

[1] *See generally* 6 *USCIS Policy Manual* F.2(B)(1), http://www.uscis.gov/policy-manual.

[2] *Id.*

have received the award as a team member for excellence in her field of endeavor.[3] It is not clear how these awards meet the criterion to demonstrate the Petitioner's excellence in her field of endeavor.

For example, letters of endorsement from individuals who worked with the Petitioner emphasize her role as a valued asset in a joint collaboration on these productions. These letters highlight the positive attributes that the Petitioner brought to her positions, such as her creativity, technical precision, and reliability, and they point out the importance of the Petitioner's role in maintaining particular props for the 2022 film. However, there is no indication in these letters or elsewhere in the record—such as evidence of criteria used to grant the awards, had it been provided—that they included recognition of the Petitioner's excellence, specifically, as a team member. It is not evident how the film's receipt of an [redacted] for [redacted] and a [redacted], or the television series' receipt of an [redacted] for [redacted] and a [redacted], demonstrates her excellence in the field of set and prop design.

On appeal, the Petitioner takes issue with SCOPS' conclusion that the record did not demonstrate that the [redacted] are nationally or internationally recognized. The Petitioner was part of a set design team whose property master received a [redacted] for a one-hour period series, and the record shows that these awards are presented by the [redacted] to recognize property masters for their work in various categories of film, television, and web series. She resubmits an article listing the most recent award nominees, as well as another article listing the previous year's winners and identifying the [redacted] as "[redacted]."

Although the record shows that the Petitioner has received an award for her work in the field of set and prop design as a part of a team, it does not demonstrate that the award is nationally or internationally recognized. For example, while the two articles list the nominees and winners, there is no indication that the awards were televised or otherwise advertised through national or international media.[4] Further, the evidence submitted does not sufficiently demonstrate that the award was granted for excellence in the field for purposes of this criterion. The record does not include information concerning the criteria used to grant the award, and it is not clear whether competition is limited to members of the [redacted]. A petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

The burden is on the Petitioner to demonstrate the level of recognition and achievement associated with her awards. The submitted documentation does not establish that the Petitioner's awards had a substantial level of recognition nationally or internationally, nor does it establish that she received awards for excellence in her field. The Petitioner has not established that she meets this criterion.

2. Membership

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of

[3] *Id.*

[4] National or international media coverage is one possible measure of the national or international recognition of a prize or award. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

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* at F.2(B)(1).

As evidence of her qualifications under this criterion, the Petitioner submitted documentation of her membership in a labor union representing the technical crew behind a variety of media productions: the International Alliance of Theatrical Stage Employees (IATSE), Local 44. She provided a guide to joining the Local 44, which states that dues vary by craft and are based on the hourly rate of that particular craft. The guide also summarizes topics covered in the IATSE Basic Agreement, which include company contributions, safety and set requirements, hours, wages, and benefits.

Additional information concerning the union is found in letters from Local 44 members, which emphasize that thirty hours working on union-organized productions is a requirement to join. One of these letters, from a set decorator and foreman, states that membership also requires demonstrating "exceptional merit, proven expertise, and verified industry experience," and that admission is not based "simply on seniority or payment of dues." A letter from a business agent and representative of the Local 44 characterizes the IATSE as a "[g]lobally recognized" organization with extensive influence, describing membership as "widely regarded as a hallmark of professional excellence in the entertainment industry." The letter touts the Petitioner's skills and abilities, stating that she "has consistently exemplified these values throughout her affiliation" with the union, "demonstrating exceptional adaptability, technical skill, and artistic growth."

While these letters demonstrate that the Petitioner is a valued member of the Local 44 and generally reference the professionalism of the union's members, they do not demonstrate that admission requires outstanding achievement of potential members. On appeal, the Petitioner emphasizes the set decorator and foreman's reference to admission based on "outstanding skills and achievements." However, the record does not include documentation establishing the existence of that basis or illuminating what specific skills and achievements form such a basis. Further, the record does not include any documentation about how membership requests are evaluated, who judges suitability for admission, or whether those judges are recognized national or international experts in their disciplines or fields.

On appeal, the Petitioner asserts that her membership with the [redacted] satisfies the requirement of this criterion, and she references letters from [redacted] leadership initially included with the petition "confirming that membership is merit-based and peer-evaluated." We note that in a request for evidence (RFE), SCOPS explained why the record did not demonstrate that the Petitioner's [redacted] membership satisfied the criterion and suggested evidence to submit in response. However, her response to the RFE did not include additional evidence related to her [redacted] membership or membership requirements. She offers new evidence on appeal in the form of references in her brief to qualifications required to apply as a property master, citing the [redacted] website. She also includes in her brief a table depicting the [redacted] – Expert Profiles," which cites the Internet Movie Database (IMDb) as a source for the information provided.

Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See Matter of Furtado*, 28 I&N Dec. 794, 801-02 (BIA 2024) (declining to consider new evidence on appeal when the petitioner was put on notice of

the required evidence and given a reasonable opportunity to provide it) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA1988)); *see also* 8 C.F.R. § 103.2(b)(11) (requiring that in response to a request for evidence or notice of intent to deny, all evidence must be submitted together at one time and that submitting only some of the required evidence will be considered a request for a decision on the record).

Accordingly, the Petitioner has not established that she meets the requirements of this criterion

3. Published Material

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* at F.2(B)(1).

The Petitioner submitted articles about herself and her work from online publications. SCOPS acknowledged the articles and requested additional evidence to demonstrate that they originated from professional or major trade publications or other major media, such as circulation numbers and information about the publications' intended audiences. In response to the RFE, the Petitioner did not submit any additional information or evidence concerning the articles or publications. SCOPS determined that the Petitioner did not address the deficiencies under the criterion.

On appeal, the Petitioner asserts that "[q]uantifiable [a]udience [m]etrics [d]emonstrate '[m]ajor' [s]tatus" of the publications, stating that SCOPS ignored the "submitted Media Analysis provid[ing] concrete, objective metrics." Review of the record does not reveal the presence of additional evidence concerning published material about the Petitioner beyond the articles initially submitted. The Petitioner's appeal brief attributes readership numbers to each publication, but the record does not include evidence to corroborate the numbers cited or other evidence concerning the nature of the publications. Again, a petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. The record does not include evidence to demonstrate that the articles originate from professional or major trade publications or other major media. Further, as explained above, we are not obligated to consider new evidence on appeal.[5]

Accordingly, the Petitioner has not established that she meets the requirements of this criterion.

III. CONCLUSION

The Petitioner did not establish that she has met the three categories of evidence discussed above. Although she also asserts eligibility under the criterion at 8 C.F.R. § 204.5(h)(3)(ix), which concern high

[5] *See Matter of Furtado*, 28 I&N Dec. at 801-02 (BIA 2024) and 8 C.F.R. § 103.2(b)(11).

salary or remuneration, we need not reach this additional ground because the Petitioner cannot fulfill the initial evidentiary requirement to meet at least three criteria under 8 C.F.R. 204.5(h)(3).[6]

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*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 2025) (stating that 8 C.F.R. § 204.5(h)(3) 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.[7]

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the 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.

[6] *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).
[7] *Id.*