U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37656035

Date: APR. 21, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a hockey athlete and coach, 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). The first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and those 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: (1) the Petitioner had satisfied at least three of ten initial evidentiary criteria for this classification, as required; and (2) her entry will have substantial prospective benefits for 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

An alien is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue working in the area of extraordinary ability; and their entry into the United States will substantially benefit the country.

The implementing regulations provide that a petitioner may establish prima facie eligibility as an alien of extraordinary ability either by demonstrating receipt of a one-time achievement of a major internationally recognized award or, in the alternative, by satisfying at least three of the ten initial evidentiary criteria provided at 8 C.F.R. § 204.5(h)(3)(i)-(x). 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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022); *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 hockey athlete, coach and referee. The record reflects that she has competed in international competition as a member of [redacted] in both inline hockey and ice hockey. The Petitioner has also served as the coach of [redacted] She states that she intends to work as a hockey coach in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must demonstrate that she satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). She provided evidence relating to five of the ten criteria and requested that SCOPS consider comparable evidence of her eligibility under 8 C.F.R. § 204.5(h)(4).

SCOPS concluded the Petitioner established that she has received lesser nationally or internationally recognized awards for excellence in her field and that she has performed in a leading or critical role for an organization that has a distinguished reputation and therefore satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(i) and (viii). However, SCOPS determined that the Petitioner did not sufficiently document her membership in associations that require outstanding achievements of their members; published materials about her in professional or major trade publications or other major media; or her participation as a judge of the work of others in the same or allied field. *See* 8 C.F.R. § 204.5(h)(3)(ii), (iii) and (iv).

On appeal, the Petitioner maintains that SCOPS overlooked evidence of her eligibility. She maintains that she meets all five claimed criteria and demonstrated that her contributions would significantly benefit the U.S. sports community.

Upon de novo review, we conclude the Petitioner has demonstrated that she meets at one additional criterion under 8 C.F.R. § 204.5(h)(3)(i)-(x) and therefore satisfied the initial evidence requirements for this classification.

Specifically, the Petitioner has established, by a preponderance of the evidence, that she has participated as a judge of the work of others in the same or allied field, as required by the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iv). In addressing this criterion, SCOPS evaluated evidence related to the Petitioner's participation as a referee for inline hockey competitions. SCOPS acknowledged the Petitioner's submission of the [redacted] published by [redacted] the [redacted] but concluded this

evidence did not demonstrate that the duties and responsibilities of a referee include judging the performance of either athletes or other referees.

On appeal, the Petitioner submits a letter from the president of the [redacted] the [redacted] who distinguishes between the duties assigned to referees and head referees in competitions organized by the Federation. According to the president's letter, head referees are responsible for evaluating the performance of referees during games, addressing and correcting any mistakes made by referees during the competition, scoring referees on their performance, and reporting the results to the [redacted] The letter explains that scores submitted by head referees are considered for the purposes of granting higher-level referee certifications.

We agree with SCOPS that the duties of a referee in the sport of inline hockey, as documented in the record, do not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(iv). However, the record, including the evidence on appeal, demonstrates that head referees perform distinct duties that satisfy the plain language of the regulation and distinguish them from other referees in the sport. Further, the record includes evidence that the Petitioner served as a head referee for [redacted] Based on this evidence, we conclude that she has satisfied this criterion.

In addition, the Petitioner contends that her role as the coach of the [redacted] required her to judge the performance of hockey athletes. Specifically, she emphasizes that previously submitted evidence shows that the national team coach is appointed to the position by the national federation in the sport and is responsible for evaluating the performance of athletes to determine which players will be invited to the national team training camps, and ultimately, which players will be selected for the national team and to represent Iran in international competition. The record supports the Petitioner's assertion that she participated as a judge of the work of others in her field in this capacity.

For the foregoing reasons, we withdraw SCOPS' determination that the Petitioner did not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(iv). We also agree with the Petitioner that she provided sufficient information to demonstrate that her entry would offer prospective benefits to the United States, as required by section 203(b)(1)(A)(iii) of the Act. We will therefore withdraw SCOPS' determination that she did not satisfy this statutory requirement.

B. Final Merits Determination.

The Petitioner has satisfied at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) and therefore meets the initial evidence requirements for this classification. We therefore need not address whether she meets any additional evidentiary criteria. *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).

However, granting the third initial criterion does not suffice to establish eligibility for the classification the Petitioner seeks. USCIS must now make a final merits determination based on a review of the totality of the evidence the Petitioner provided. SCOPS did not make such a finding. Rather than make this determination in the first instance, we will remand the matter to SCOPS.

On remand, SCOPS must analyze the Petitioner's accomplishments and weigh the totality of the evidence, including the evidence and arguments provided on appeal, to determine if she established her extraordinary ability in her field of endeavor based on the statutory and regulatory standards. *See* section 203(b)(l)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. SCOPS should consider any potentially relevant evidence of record, even if it does not fit one of the evidentiary criteria or was not presented as comparable evidence. *See generally* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policy-manual. The type and quality of evidence should determine the petition's approval or denial. *Id.*

ORDER: The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.