U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41456310

Date: APR. 22, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a journalist, seeks classification as an alien of extraordinary ability. *See* section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id.*

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner was not the recipient of a major, internationally recognized award and did not satisfy at least three of the ten evidentiary criteria to meet the initial evidentiary requirements of the classification. 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 immigrant visas available to aliens with extraordinary ability if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry will substantially benefit the United States prospectively. 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 of the evidence to determine whether a petitioner has sustained national or international acclaim and whether their achievements have been recognized in the field. First, a petitioner can provide evidence of either "a major, international recognized award," or satisfaction of at least three of ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3).

Where a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) then considers the totality of the material provided in a final merits determination and assesses 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, 1121 (9th Cir. 2010) (discussing a two-step 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); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual (providing, as guidance, USCIS' two-step extraordinary ability analysis).

II. ANALYSIS

The Petitioner is a national of Kazakhstan. According to her Form I-140, Immigrant Petition for Alien Workers, her job title is a journalist. She submitted two undated personal statements describing herself as a poet, writer, member of the performing arts, model, and actor. She stated she has a bachelor's degree in law and is a professional coach. She also said she aspires to establish a center for psychological assistance to women and children affected by domestic violence and a talent developmental center for children. She intends to publish books and poems and to be a print journalist, writing for newspapers, magazines, and other publications. She also included employment letters indicating she has been working for a home care agency since July 2024, but the letters do not explain her job title or duties.

A. Issues Waived

SCOPS determined the Petitioner had not established that she has received a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3). On appeal, the Petitioner does not contest this finding. We therefore deem this issue waived. *See 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)) (waiving an issue not fully developed on appeal).

She must therefore satisfy at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Based on our de novo review of the record, the Petitioner will not meet this showing. The Petitioner did not assert in the record below or on appeal that she meets the criteria at 8 C.F.R. § 204.5(h)(3)(viii), (ix), or (x), regarding her performance in a leading or critical role for organizations or establishments, commanding a high salary or significant remuneration for services, and commercial success in the performing arts. We therefore deem the Petitioner's eligibility under these three criteria also waived.

B. Remaining Evidentiary Criteria

1. Criteria Not Established

SCOPS determined the Petitioner did not establish the criterion at 8 C.F.R. § 204.5(h)(3)(i), which requires evidence of her receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The Petitioner submitted a finalist certificate for the category of children's prose, presented to her in 2023 at the [redacted] in Kazakhstan for her work,

[redacted]' She also provided a finalist certificate in the category of children's prose and her nomination for "General of Peace for Peace" for her work, [redacted] both presented to her in 2021 at [redacted] in Uzbekistan. SCOPS determined that the Petitioner did not establish that her selection as a finalist was analogous to an award or prize. We further add that the Petitioner did not explain how her nomination for the [redacted] is equivalent to an award or prize to meet the plain meaning of the regulation. SCOPS also determined that the Petitioner had not demonstrated how the certificates demonstrated her excellence in journalism, her field of endeavor. Further, SCOPS found that the Petitioner did not provide independent, probative evidence to demonstrate the national or international recognition of her certificates as her supporting evidence was authored by members of [redacted] and their affiliated magazine. We agree with SCOPS' findings with respect to this criterion.

On appeal, the Petitioner claims that SCOPS did not consider that in 2014 a well-known Polish writer received a medal which was awarded at [redacted] To the extent she is arguing that the Polish writer's receipt of a medal brought national or international recognition to [redacted], she does not provide any supporting evidence to corroborate such an assertion and even if she had, this evidence, in and of itself, would not support the national or international recognition of her certificates, which, according to her own appeal brief, are different from the medal awarded to the writer and were awarded by a different organization, under different criteria. She also argues that SCOPS erred by not reviewing the letters by the chair of the [redacted] and the jury member for the competition who described the certificates' significance and the selection process. However, the Petitioner does not address any of the issues raised by SCOPS, nor does she explain how the two letters cure the issues raised with respect to how her certificates and nomination are equivalent to awards, and how they add probative value to demonstrate the certificates are recognized nationally or internationally and for excellence in journalism.

SCOPS determined the Petitioner did not establish the criterion at 8 C.F.R. § 204.5(h)(3)(ii), which requires she provide documentation of her membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. The Petitioner submitted documents of her affiliation with the [redacted] and Christian Evangelical Pentecostal Church. SCOPS properly explained how the Petitioner did not meet her burden in establishing that these organizations require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or field. We therefore adopt and affirm SCOPS' analysis of this criterion. We also conclude that the Petitioner did not explain or provide any supporting evidence demonstrating how these organizations are equivalent to associations in the field of journalism. For example, according to an undated letter by the [redacted] chairman, the organization is a public non-profit "established in 2015 with the aim of uniting and promoting cultural and artistic figures from the Eurasian region in the English-speaking world." On appeal, the Petitioner repeats arguments addressed by SCOPS' decision and does not address the issues raised within the decision, including that the Petitioner did not demonstrate the organizations require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. She also asserts that SCOPS did not acknowledge her charitable work and social activities. However, the Petitioner does not explain how these activities demonstrate she meets the requirements of 8 C.F.R. § 204.5(h)(3)(ii).

SCOPS determined the Petitioner did not establish the criterion at 8 C.F.R. § 204.5(h)(3)(vi), requiring evidence of the Petitioner's authorship of scholarly articles in the field, in professional or major trade publications or other major media. In response to SCOPS request for evidence the Petitioner acknowledged that she "cannot provide evidence of her authorship of scholarly articles . . . as she is not a researcher or academic but a creative individual, poet and writer" and argues that a blog post she wrote about Christmas for [redacted] should be considered as meeting the requirements of this criterion. She also discussed that she served as a reviewer for a book.[1] SCOPS determined the Petitioner did not demonstrate she authored scholarly articles in her field or that any of her work was accepted and published within a professional, major trade publication, or other major media. On appeal, the Petitioner argues that her classification pertains to the field of arts not sciences and the regulations do not require scholarly or academic publications but instead evaluates evidence of artistic, literary, and cultural works recognized by the public and professional community. The Petitioner does not provide any authority in support of this assertion. She then concludes that we should consider her blog post on Christmas, her excerpts of short stories, and her review of a book as meeting the criterion.

The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit "comparable evidence to establish the beneficiary's eligibility" where the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) "do not readily apply to the beneficiary's occupation." To the extent she is requesting us to evaluate her evidence as comparable, she must first demonstrate that this criterion is not applicable to journalists. The fact that the Petitioner has not authored scholarly articles in the field, in professional or major trade publications or other major media, does not establish that this criterion does not readily apply to journalists. As a result, the Petitioner has not met this criterion and has not established that we should consider her comparable evidence as meeting this criterion.

2. New Criteria and Evidence Raised on Appeal

On appeal, the Petitioner raises for the first time her eligibility with respect 8 C.F.R. § 204.5(h)(3)(iv), (v), and (vii), regarding her participation as a judge of the work of others, contributions of major significance in the field, and display of work in the field. We do not treat an appeal as a new adjudication of an immigration benefit request as if there had been no prior adjudication. *See, e.g., U.S. v. Raddatz*, 447 U.S. 667 (1980). The reason for filing an appeal is to provide an affected party with the means to remedy what they perceive as an erroneous conclusion of law or statement of fact within a previous proceeding. *See* 8 C.F.R. § 103.3(a)(1)(v). As SCOPS could not have committed an error in law or an error in fact as it relates to these additional criteria, we will not consider those claims for the first time on appeal. *See Matter of Izaguirre*, 27 I&N Dec. 67, 71 (BIA 2017) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)).

The Petitioner also includes new documents in support of various criteria. For example, the Petitioner submits a certificate of commendation issued in 1999 to support her assertion that she received an award under 8 C.F.R. § 204.5(h)(3)(i). 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

[1] In the record below, the Petitioner does not assert or provide evidence that her work as a book reviewer meets the criterion at 8 C.F.R. § 204.5(h)(3)(iv), which requires evidence of her participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

it) (citing *Matter of Soriano*, 19 I&N Dec. at 766). The Petitioner also submits evidence she claims was not in existence at the time of filing in January 2024. For example, she submits an award she received in July 2025 for our consideration of 8 C.F.R. § 204.5(h)(3)(i), and information regarding her membership in the Union of Writers of North America for our consideration of 8 C.F.R. § 204.5(h)(3)(ii). We also will not consider new evidence acquired after the time of filing. *See* 8 C.F.R. § 103.2(b)(1) ("[a]n applicant or petitioner must establish that he or she is eligible for the requested benefit *at the time of filing the benefit request* and must continue to be eligible through adjudication") (emphasis added).

3. Issues Reserved

SCOPS determined the Petitioner did not establish she meets the criteria at 8 C.F.R. § 204.5(h)(3)(iii), requiring evidence of published material about the Petitioner in professional or major trade publications or other major media, relating to the Petitioner's work in the field for which classification is sought. As the Petitioner would be unable to establish three of the ten threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude she is an alien of extraordinary ability and reserve our analysis of the remaining criterion as well as a 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); *see also Kazarian*, 596 F.3d at 1119-20 (discussing a two-step review, where if the required number of criteria are met by the documentation, then it is considered in the context of a final merits determination).

III. CONCLUSION

The Petitioner has not demonstrated 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 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.