U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37422343

Date: APR. 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, who seeks employment as a basketball 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). 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 record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. In making this decision, SCOPS observed that most of the evidence in the record concerns the Petitioner's past career as a basketball player, not as a coach. The matter is now before us on appeal under 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 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. A petitioner must establish that these aliens seek to enter the United States to continue work in the area of extraordinary ability, and that their entry into the United States will substantially benefit the United States. The term "extraordinary ability" refers only to those aliens 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 an alien's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence 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. If those

standards do not readily apply to the alien's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we assess whether the record shows sustained national or international acclaim and demonstrates that the alien 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 competed in youth basketball leagues in Russia from 2001 to 2007. The Petitioner continued playing while studying in the United States between 2007 and 2013, first at [redacted] in Florida and then at [redacted]. After graduating from [redacted] the Petitioner played professionally in Russia and Poland from 2013 until he entered the United States in September 2022 as a B-2 nonimmigrant visitor. The Petitioner stated that he intends to start a basketball school, and he claimed that "[s]everal schools have also expressed their interest in retaining [his] services as a coach-consultant . . . to provide regular training sessions for their coaches."

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner initially claimed to have satisfied eight of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the alien in professional or major media;
- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance;
- (vii), Display at artistic exhibitions or showcases;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services.

SCOPS concluded that the Petitioner had not met any of the criteria. In making that conclusion, SCOPS stated that evidence relating to the Petitioner's past career as a basketball *player* does not relate to the Petitioner's intended field of endeavor as a basketball *coach*.

SCOPS did not err by taking the Petitioner's career transition into account. The *USCIS Policy Manual* addresses the implications of a career transition from athlete to coach:

> Competitive athletics and coaching rely on different sets of skills and in general are not in the same area of expertise. However, many extraordinary athletes have gone on to be extraordinary coaches.

> Therefore, in general, if a beneficiary has clearly achieved recent national or international acclaim as an athlete *and has sustained that acclaim in the field of coaching or managing at a national level*, officers can consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability such that USCIS can conclude that coaching is within the beneficiary's area of expertise.

See generally 6 *USCIS Policy Manual* F.2(A)(2), https://www.uscis.gov/policy-manual (emphasis added).

However, the transition from athlete to coach is somewhat separate from the antecedent questions of whether the Petitioner has satisfied the initial criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). Upon consideration of the record, we conclude that the Petitioner appears to have satisfied at least three of the criteria in his earlier career as a basketball player. He won awards in national championships, was the subject of published material in major media, and judged the work of others. Because the regulation at 8 C.F.R. § 204.5(h)(3) requires the satisfaction of only three criteria, we need not discuss the other five claimed criteria here and hereby reserve them.[1]

Ordinarily, the next step would be a final merits determination, as described in *Kazarian*, to determine whether the Petitioner had established that he achieved sustained national or international acclaim. Such a determination would take into account evidence that the Petitioner has played basketball at a national or international level. At the same time, competing at the major league level does not automatically establish extraordinary ability. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994), citing 56 Fed. Reg. 60899 (Nov. 29, 1991). The level at which the Petitioner has competed is a relevant factor but not, by itself, a determining one.

A final merits determination relating to the Petitioner's career as a player would show that, while the Petitioner has facially satisfied the requirements of some of the criteria, the relevant evidence does not clear the higher threshold of showing sustained national or international acclaim. For example, while the Petitioner performed judging activities to satisfy 8 C.F.R. § 204.5(h)(3)(iv), he did so at a [redacted], at events involving "young basketball players" 10 or 11 years of age, such as the [redacted] tournament in May 2021 for players "born in 2011 and younger." The Petitioner did not show that judging children's events of this kind is reserved for acclaimed athletes or that this activity resulted in or contributed to such acclaim.

As another example, the Petitioner has attracted some media attention, but not consistently and only rarely in major media. Even occasional coverage in major media satisfied the individual criterion at 8 C.F.R. § 204.5(h)(3)(iii), but does not persuasively show sustained acclaim when considering the totality of the evidence. The Petitioner competed nationally and sometimes internationally, but the record does not show that he has consistently received the level of ongoing recognition that the extraordinary ability classification requires.

[1] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

But separate from the issue of acclaim, the Petitioner must establish that he seeks to enter the United States to continue work in the area of claimed extraordinary ability. Section 203(b)(1)(A)(ii) of the Act; 8 C.F.R. § 204.5(h)(5). Like sustained acclaim, intention to continue work in the area of claimed extraordinary ability is a core eligibility requirement.

SCOPS concluded that most of the evidence of record "is related to the beneficiary's accomplishments as a basketball player. However, the beneficiary seeks to continue his work as a basketball coach. The evidence does not appear to relate to the beneficiary's work in the field in which the classification is sought."

We agree with SCOPS' determination that, although the Petitioner intends to work as a coach in the United States, the substantial majority of the evidence in the record relates to the Petitioner's former career as an athlete. Evidence of acclaim as an athlete does not establish acclaim or extraordinary ability as a coach. *See Lee v. Ziglar*, 237 F. Supp. 2d 914, 917 (N.D. Ill. 2002) (finding that the "distinction between extraordinary ability as a coach and a player is a reasonable one, entitled to deference," because playing and coaching "are markedly different roles").

In this case, the Petitioner's career as a competing athlete was quite recent, ending only about a year before he filed the petition. Therefore, the Petitioner must not only establish that he achieved national or international acclaim as an athlete, but that he sustained such acclaim as a coach.

Because the Petitioner has identified that he seeks employment in the field of coaching, and the statute requires that he "seeks to enter the United States to continue work in the area of extraordinary ability," the athlete to coach transition necessarily relies on demonstration of extraordinary ability, and thus sustained national or international acclaim, as a coach. If the evidence of record does not demonstrate that the Petitioner has sustained acclaim at the national or international level as a *coach*, then a more detailed discussion of whether the Petitioner previously earned such acclaim as an *athlete* would not change the ultimate outcome of this proceeding.

Therefore, below we will consider the key question of whether the Petitioner has established sustained national or international acclaim as a coach.

The Petitioner must meet eligibility requirements at the time of filing. *See* 8 C.F.R. § 103.2(b)(1). Here, when the Petitioner filed the petition in July 2023, he had not yet been employed specifically as a coach, as opposed to a player with incidental instructional responsibilities. The Petitioner does not claim to have held coaching credentials outside the United States. His résumé indicates that he earned an associate's degree in basketball coach education in Russia in 2022, shortly before he traveled to the United States. He received a coaching license from USA Basketball in November 2022, but was not employed in the United States until September 2023, when he began teaching fifth and sixth grade teams at a basketball academy in Florida.

The Petitioner's U.S. employment as a coach began about two months after he filed the petition, and therefore cannot count toward eligibility at the time of filing.

On appeal, the Petitioner asserts that his "trajectory mirrors that of esteemed coaches who have achieved national and international acclaim." The Petitioner cites information relating to one such coach's

"evolution from a player at the United States Military Academy . . . to the Head Coach of [redacted] The Petitioner also cites a "comprehensive list of NBA players who have transitioned to successful coaching careers." To establish eligibility for the highly restrictive classification he seeks, the Petitioner must establish that he personally has achieved sustained national or international acclaim as a coach, the field in which he intends to work in the United States. Evidence showing that other athletes have achieved acclaim as coaches does not establish that the Petitioner has done the same.

Even then, the Petitioner has not shown that his U.S. coaching positions are consistent with sustained national or international acclaim. Officials from two Florida clubs state that they have employed the Petitioner as a children's coach since 2023.[2] The Petitioner has not shown that his work with these children's teams, one of which operates out of a middle school, has attracted national or international attention.

The Petitioner has claimed: "Only those with exceptional accomplishments as a basketball player, including winning prestigious national and international awards in tournaments, are eligible" for the gold coach license that USA Basketball issued to him. The record does not support this assertion. Statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight. *Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998). The documentation in the record identifies no requirements for the gold coaching license apart from payment of a small fee, completion of a background check, and passing two courses. These nominal requirements do not indicate that the license either reflects existing acclaim or contributes to such acclaim.

Another unsupported claim relating to the Petitioner's gold coach license is that the license is evidence of membership in an exclusive association. The Petitioner has not submitted any evidence that specifically identifies him as a member of USA Basketball, as opposed to holding a credential issued by that entity. USA Basketball's constitution, included in the record, lists five "Categories of Membership," all of them for "sports organizations" rather than individuals.

The Petitioner stated that "[s]everal schools have also expressed their interest in retaining [his] services as a coach-consultant . . . to provide regular training sessions for their coaches." The Petitioner submitted a letter of interest signed by the head basketball coach of [redacted] The record shows that this same person was previously an associate coach at [redacted] where he coached the Petitioner. Because of this existing connection between the coach and the Petitioner, the invitation to train coaches in [redacted] does not indicate that the Petitioner has garnered wider acclaim beyond those who have already worked with him.

Coaches and an agent who have worked with the Petitioner in the past state, in general terms, that the Petitioner has developed his own coaching methodology. The Petitioner described aspects of this methodology in what appear to be printouts from an electronic slide presentation, with the title [redacted]. Copies of licensing agreements dated late 2022 identify a small number of coaches who have licensed the methodology. A number of these individuals have connections to teams in which the Petitioner has played; one licensee was the Petitioner's teammate at [redacted] These materials

[2] We note that printouts from their websites, dated August 2024, do not include the Petitioner among the coaches identified. From the record, we cannot determine whether the Petitioner had already left those clubs, or whether the clubs had not updated their websites to reflect their most current staffing. The web printouts do not indicate that the clubs sought to draw attention to their employment of the Petitioner.

do not show that the Petitioner's methodology has been widely implemented at a level that would indicate national or international acclaim, or that teams that use the Petitioner's methodology have consistently seen significant improvements in performance. The agreements, by themselves, do not even show that the licensees have actually implemented the Petitioner's methodology.

The record contains a small number of documents relating to the Petitioner's first two years as a credentialed basketball coach, but these materials do not establish that he has sustained any acclaim that he may have earned during his earlier career as a basketball player. The Petitioner has documented some earlier instructional work incidental to his athletic career, which the Petitioner contends marks the true beginning of his coaching career. But the Petitioner has not shown that these occasional activities either reflected or contributed to acclaim as a coach. The most significant published materials about the Petitioner in the record concern his activity as a player, and predate by several years his training as a coach. His educational work attracted considerably less attention. Screen captures of YouTube videos featuring the Petitioner at masterclasses for children show minimal view counts, such as 100 views over more than two years.

The Petitioner has not established extraordinary ability and sustained national or international acclaim as a coach, which is the occupation he intends to pursue in the United States.

III. CONCLUSION

While SCOPS' denial pertained to the lack of evidence of sustained acclaim, SCOPS was correct to draw a distinction between the evidence regarding the Petitioner's career as an athlete and his intended future work as a coach. The Petitioner's sparsely documented coaching activities do not support a conclusion that the Petitioner has established the acclaim and recognition required for classification as an alien of extraordinary ability as a basketball coach.

The Petitioner seeks a highly restrictive visa classification, intended for individuals who have already reached, and remain at, the top of their respective fields, rather than those progressing toward the top, or who are embarking on new careers related to ones in which they had previously earned more recognition.

Here, the Petitioner has not shown a degree of recognition of his coaching work that rises to the level of sustained national or international acclaim and demonstrates a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

The Petitioner has not demonstrated eligibility as an alien of extraordinary ability. We will therefore dismiss the appeal.

ORDER: The appeal is dismissed.