U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37337312

Date: APR. 23, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-129, Petition for a Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, an agent, seeks to classify the Beneficiary as an actress of extraordinary ability. To do so, the Petitioner pursues O-1 nonimmigrant classification, available to individuals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not establish the Beneficiary's satisfaction of the initial evidentiary criteria applicable to individuals of extraordinary ability in the arts: nomination for or receipt of a significant national or international award, or at least three of six possible forms of documentation. In addition, SCOPS found the Petitioner did not satisfy the contract and event requirements. 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

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics, which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of arts" as "distinction," and "distinction" as "a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts." *See* 8 C.F.R. § 214.2(o)(3)(ii). Next, DHS regulations set forth alternative initial evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner may submit evidence either of nomination for or receipt of "significant

national or international awards or prizes" such as "an Academy Award, an Emmy, a Grammy, or a Director's Guild Award," or at least three of six listed categories of documents. *See* 8 C.F.R. § 214.2(o)(3)(iv)(A)-(B). A petitioner may submit comparable evidence if the criteria do not readily apply to the beneficiary's occupation. *See* 8 C.F.R. § 214.2(o)(3)(iv)(C).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994) ("The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met.").[1] Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows extraordinary ability in the arts. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iv).

II. ANALYSIS

SCOPS determined the Petitioner did not demonstrate the Beneficiary's nomination for, or receipt of, significant national or international awards or prizes under 8 C.F.R. § 214.2(o)(3)(iv)(A). In addition, SCOPS concluded the Petitioner did not establish the Beneficiary's eligibility for any of the three claimed alternative criteria. On appeal, the Petitioner contends the Beneficiary received significant national or international awards or prizes and satisfies three categories of evidence.[2]

Moreover, the Petitioner submits new evidence on appeal. 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 (BIA 1988)); *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 requested evidence will be considered a request for a decision on the record).

A. 8 C.F.R. § 214.2(o)(3)(iv)(A)

The regulation at 8 C.F.R. § 214.2(o)(3)(iv)(A) requires "[e]vidence that the alien has been nominated for, or has been the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director's Guild Award."[3] The Petitioner argues the Beneficiary's eligibility for this criterion based on the [redacted]

As it relates to [redacted], the Petitioner offered a letter from R-B-, theatre director, who claimed that "[m]any projects to follow, one of them [redacted] should even receive the [redacted], in which [the Beneficiary] starred as the only actor, carrying the show, with scenes, interactively with the audience

[1] *See also generally* 2 *USCIS Policy Manual*, M.4(B), https://www.uscis.gov.policymanual.
[2] Any ground of ineligibility that is not raised on appeal is 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)).
[3] *See also generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(2).

and over speaker, her voice guiding us," and '[redacted] guarantees us a lifelong representation and ongoing exploration at any Theater." In addition, the Petitioner submitted screenshots in a foreign language without English language translations. Although on appeal the Petitioner asserts that "[w]hile we have included translated versions of the Premio web pages, we note that relevant portions of the web pages need no translation," any document in a foreign language must be accompanied by a full English language translation. *See* 8 C.F.R. § 103.2(b)(3). Because the Petitioner did not submit properly certified English languages translations as required, we accord them no weight as we cannot determine whether they support their claim.

Regarding [redacted] the Petitioner submitted a letter from J-B-, theatre director, who indicated that she "first encountered [the Beneficiary] when she auditioned for the [redacted]' and "[a]mong an independent jury of five professionals, [the Beneficiary'] talent convinced us in unison and she was the sole recipient for the [redacted]."

As it pertains to [redacted] the Petitioner provided a letter from C-F-, management director, who stated that "[t]he purpose of the Dr. [redacted] is to enable or facilitate initial academic training for talented young people who are worthy of support my means of scholarships," and the Beneficiary "was supported by our foundation with monthly scholarships from May 2016 to June 2019 to obtain her bachelor's degree in acting at the [redacted]."

Although the letters relating to [redacted] reference the Beneficiary's receipt of the [redacted] and [redacted], respectively, R-B-'s letter indicates that [redacted] "should" receive [redacted] without evidence establishing that the show actually received the award. Even if the Petitioner demonstrated that [redacted] received [redacted] the Petitioner did not show that the Beneficiary won the award.

Notwithstanding the above, the Petitioner did not establish that any of these awards qualify as significant national or international awards. The regulation at 8 C.F.R. § 214.2(o)(3)(iv)(A) does not further define significant national or international awards or prizes. However, the regulation offers examples: the Academy Award, an Emmy, a Grammy, or a Director's Guild Award. While these are only examples and other awards and prizes may qualify, the Petitioner must demonstrate that any of the Beneficiary's claimed awards are comparable or consistent in significance, stature, or prestige to the examples. Here, the Petitioner did not show that the [redacted] enjoys similar standing. Besides brief references in the letters and non-translated foreign language screenshots, the Petitioner did not provide independent, objective evidence reflecting the national or international significance of the awards. Moreover, the Petitioner did not establish that any of the letters discuss the gravity of the awards in order to classify them as significant national or international accolades, consistent with this regulatory criterion.

For the reasons discussed above, the Petitioner did not establish that the Beneficiary meets the regulation at 8 C.F.R. § 214.2(o)(3)(iv)(A).

B. 8 C.F.R. § 214.2(o)(3)(iv)(B)(*3*)

The regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*3*) requires "[e]vidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidence by articles in newspapers, trade journals, publications, or

testimonials." This criterion requires evidence of: the beneficiary's current or past lead, starring, or critical role for a distinguished organization or establishment, including a distinguished division or department of such an entity; and the beneficiary's prospective lead, starring, or critical role for a distinguished organization or establishment, including a distinguished division or department of such an entity.[4] This criterion differs from the first criterion, which is specific to productions or events.[5]

Evidence may demonstrate a lead role by establishing that the person has a principal role in the organization or establishment.[6] A starring role means a position of great prominence relative to others in the organization.[7] To show a critical role, the evidence should establish that the beneficiary has contributed or will contribute in a way that is of significant importance to the organization or establishment's activities.[8] USCIS considers factors such as whether the beneficiary's performance in the role has been or will be integral or important to the organization or establishment's goals or activities, especially in relation to others in similar positions within the organization.[9]

At initial filing, the Petitioner's cover letter claimed the Beneficiary's eligibility for this criterion based on her performances *at* various theatrical venues rather than *for* "organizations and establishments." For instance, "played the critical role of [redacted] "starring in [redacted] at [redacted]' "performed her artistry at the [redacted]' "starred as [redacted] in [redacted] filmed for the [redacted]" "starred at the [redacted]' "had starring roles at some of the city's most renowned theatres, such as the [redacted]," "starring performances at historic venues, such as [redacted]," "has had leading roles at other renowned theatres across New York, such as the [redacted]. . .; and the historic [redacted] Likewise, relating to her prospective roles, the Petitioner claimed the Beneficiary "will continue to perform leading roles at these distinguished venues: [redacted] in [redacted] in the [redacted] at the [redacted]; as well as several leading roles at the award-winning [redacted]'

Again, this criterion does not require leading, starring, or critical roles *at* distinguished venues; rather, this criterion requires leading, starring, or critical roles *for* distinguished organizations and establishments. Regardless of where the plays or films were and will be performed, the issue is whether the alien's role was and will be leading, starring, or critical for organizations and establishments. Furthermore, the Petitioner's initial cover letter did not identify any evidence that supports its assertions for this criterion. Moreover, the burden does not rest with SCOPS to search the record in an attempt to figure out which evidence, if any, relates to the Petitioner's arguments. Rather, the burden rests with the Petitioner to establish eligibility. *See* 8 C.F.R. 103.2(b)(1); *see also Chawathe*, 25 I&N Dec. at 375-76. Without supporting evidence, the Petitioner's cover letter did not clarify whether the Beneficiary performed, and will perform, in a role for the actual theatrical venue that displayed, and will display, a play or that she performed, and will perform, in a role for a production company that displayed, and will display, a play at a theatrical venue.

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[4] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(2).
[5] *Id.*
[6] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(2).
[7] *Id.*
[8] *Id.*
[9] *Id.*

In response to a request for evidence, the Petitioner provided a table, which listed the "Organization/Establishment," "Role," and "Evidence That Beneficiary Has Lead, Starring or Critical Role(s)." However, the Petitioner did not explain how the evidence shows the nature of the Beneficiary's roles and the distinguished reputations of organizations and establishments and how the evidence meets the regulatory documentary requirements. For instance:

- [redacted] – The Petitioner provided foreign language documents purportedly of media articles and playbills without any certified English language translations. *See* 8 C.F.R. § 103.2(b)(3). In addition, the Petitioner referenced a previously submitted letter from S-V-P- who stated that the Beneficiary "was starring in [redacted] at [redacted] and found her incredibly capturing on stage." The letter did not provide any further details describing the Beneficiary's role to establish that she performed in a starring role. Moreover, the letter did not identify an organization or establishment, let alone a distinguished one, or clarify whether [redacted] produced the play or another production company displayed the play at the theatre.
- [redacted] – The Petitioner indicated "See [the Beneficiary's] Resume." However, the Petitioner did not reference any documentation to support the claims from the Beneficiary's own résumé. Further, the résumé indicates "Location" of the performance rather than an establishment or organization and lists the character without elaborating on the role's nature. Moreover, the Petitioner did not show how a resume qualifies for the regulatory required documentation of a newspaper, trade journal, publication, or testimonial.
- [redacted] – The Petitioner indicated posters for plays at the theatres. Besides listing the Beneficiary's name among the cast, the Petitioner did not demonstrate how the posters reflect the Beneficiary's leading, starring, or critical role for distinguished organizations and establishments. Further, the Petitioner did not show how posters qualify for the regulatory required documentation of newspapers, trade journals, publications, or testimonials.
- [redacted] – The Petitioner referenced a previously submitted letter from E-B- who stated that the Beneficiary "is acting in a show that my own company, [redacted] is performing in February 2024 at the historic [redacted] The letter indicated the Beneficiary is performing at the [redacted] rather than performing for the club. In fact, the letter states that the Petitioner is performing for [redacted] Moreover, the Petitioner did not demonstrate how the Beneficiary performs in a leading, starring, or critical role and whether the club, as well as [redacted] has a distinguished reputation.
- [redacted] – As indicated above, E-B-'s letter does not provide details describing the Beneficiary's role and does not show that [redacted] has a distinguished reputation.
- [redacted] – The Petitioner submitted a letter from M-S- who stated that he collaborated with the Beneficiary in [redacted] and praised her talents. However, the letter does not describe the Beneficiary's role or otherwise indicate whether she performed in a leading, starring, or critical role. Although the Petitioner also provided screenshots from IMDb, the Petitioner did not explain or establish the Beneficiary's role for The [redacted] In fact, none of the documentation references The [redacted] let alone reflecting the festival's distinguished reputation.

- [redacted] – The Petitioner referenced its submission of its itinerary for the Beneficiary's events. However, the Petitioner did not show how providing the Beneficiary's itinerary, as well as a playbill for [redacted] at [redacted] meets the regulatory documentation of newspapers, trade journals, publications, or testimonials. Further, the referenced a previously submitted letter from G-A- indicating that the Beneficiary appeared in a selection of short works presented at [redacted] and another previously submitted letter from J-W- stating that he saw the Beneficiary perform at the [redacted] The letters relate to the venues where the Beneficiary performed rather than for organizations and establishments.

The Petitioner also claimed that the "[the Beneficiary] was also one of only eleven extraordinary performers chosen out of thousands of auditioners from across the globe for the elite, highly selective [redacted] at the [redacted] and referenced a previously submitted letter from J-V-, head of studies at [redacted] who indicated that the Beneficiary "was selected out of a high number of actors to take part and stay for 2 months in Germany." However, the Petitioner did not establish how the letter shows that participating in a workshop demonstrates a leading, starring, or critical role for [redacted] Moreover, the letter does not discuss [redacted]'s reputation.

As indicated above, the regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*3*) requires "[e]vidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidence by articles in newspapers, trade journals, publications, or testimonials." In order to meet this criterion, the Petitioner must meet every element of this criterion, including the submission of proper regulatory documentation. Here, the Petitioner did not show whether it was claiming that the Beneficiary performed, and will perform, in a role for the actual theatrical venue that displayed, or will display, a play for a production company or that she performed, and will perform, in a role for a production company that displayed, or will display, a play at a theatrical venue.[10] Moreover, when the Petitioner identified organizations or establishments, it did not demonstrate the nature of the Beneficiary's role, the distinguished reputation of the entities, and submit the proper regulatory documentation. Finally, the Petitioner offered letters that did not contain specific, detailed information explaining the particular nature of the Beneficiary's roles and describing the organization's reputation.[11]

For these reasons, the Petitioner did not demonstrate that Beneficiary fulfills the regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*3*).

III. CONCLUSION

The Petitioner did not establish the Beneficiary was nominated or received a significant national or international prize or award and satisfied the third evidentiary criterion discussed above. Although the Petitioner claims the Beneficiary's eligibility for two additional categories (8 C.F.R.

[10] The Petitioner also referenced the Beneficiary's eligibility for her roles with productions and events under 8 C.F.R. § 214.2(o)(3)(iv)(B)(1), as evidenced on appeal regarding the Beneficiary's role with the production [redacted]

[11] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(2) (providing that letters and testimonials should provide as much detail as possible about the beneficiary's role and the reputation of the organization or establishment and give the credentials of the author, including the basis of the author's knowledge of the beneficiary's role).

§ 214.2(o)(3)(iv)(B)(*1*) and (*5*)), we need not address these grounds because the Beneficiary cannot fulfill the initial evidentiary requirement of at least three criteria. We also need not provide a totality determination to establish whether the Beneficiary has sustained national or international acclaim, has received a high level of achievement, and has been recognized as being prominent, renowned, leading, or well-known in the field of arts. *See* section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii) and (iv).[12] In addition, we need not make a determination on the contract and event requirements. Accordingly, we reserve these issues.[13] Consequently, the Petitioner has not demonstrated the Beneficiary's eligibility for the O-1 visa classification as an individual 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.

[12] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(4).

[13] *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).