U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42248211

Date: APR. 29, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a pastry bakery restaurant, seeks to classify the Beneficiary as a confectionary bakery chef 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. 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.

At initial filing, the Petitioner submitted a cover letter claiming that the "[e]nclosed set of documentation . . . serves to verify the fact that Chef [the Beneficiary] is one of the top recognized pastry chefs in Republic of Korea in the field of culinary arts as officially certified by the [redacted] awarded in 2016." However, the Petitioner did not explain which categories of evidence, if any, related to the documentation. 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).

SCOPS issued a request for evidence (RFE), informing the Petitioner of the evidentiary requirements, including a discussion of the submitted documentation. In response, the Petitioner again provided documentation but did not specify which evidence, if any, related to 8 C.F.R. § 214.2(o)(3)(iv)(A) or (B)(1)-(6).

In denying the petition, SCOPS stated:

> Upon review of the record, USCIS acknowledges that the petitioner submitted numerous documents in support of the Form I-129 petition seeking classification of the beneficiary as an alien of extraordinary ability in the arts (O-1B). However, the petitioner did not provide sufficient explanation or analysis demonstrating how the submitted materials meet the evidentiary criteria set forth at 8 C.F.R. § 214.2(o)(3)(iv).
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> While the record contains items such as testimonials, contract, certificates, and media articles, these documents were presented without adequate discussion linking them to the specific regulatory criteria. Merely providing documentation, without identifying which criterion each piece of evidence is intended to satisfy or explaining its significance, is insufficient to establish eligibility.
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> USCIS cannot make the necessary determinations based solely on the submission of raw documents absent accompanying explanation or analysis.

Nevertheless, SCOPS conducted an analysis of the evidence that it determined was most likely appropriate under 8 C.F.R. § 214.2(o)(3)(iv)(A)-(B). SCOPS concluded that the Petitioner did not show the Beneficiary met 8 C.F.R. § 214.2(o)(3)(iv)(A) or any of the criteria under 8 C.F.R. § 214.2(o)(3)(iv)((B)(1)-(6).

On appeal, the Petitioner again does not identify which regulatory requirements, if any, relate to the Beneficiary's documentation. Instead, the Petitioner maintains that the Beneficiary's receipt of the [redacted]" and "No objection letter issued by the [redacted]" "has demonstrated the extraordinary abilities and professional accomplishments of beneficiary for the position of pastry chef" and "verif[ies] [the Beneficiary's] extraordinary abilities as a Pastry Chef."

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Chawathe*, 25 I&N Dec. at 375-76. Here, providing evidence without explaining or indicating how that evidence qualifies the Beneficiary for the specific regulatory requirements does not meet that burden. Even on appeal, the Petitioner does not argue that the Beneficiary fulfills 8 C.F.R. § 214.2(o)(3)(iv)(A), or which of the six categories, if any, the Beneficiary satisfies under 8 C.F.R. § 214.2(o)(3)(iv)(B)(1)-(6). The burden remains with the Petitioner to identify the regulatory categories and explain how the evidence establishes eligibility rather than simply offering evidence and generally asserting that it demonstrates the Beneficiary's extraordinary abilities.

Because the Petitioner has not shown how the Beneficiary satisfies the regulatory requirements under 8 C.F.R. § 214.2(o)(3)(iv)(A) or at least three of the six categories under 8 C.F.R. § 214.2(o)(3)(iv)(B), we 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).[1] 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.

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.

[1] *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).