U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42228814

Date: APR. 30, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a special effects artist and animator, 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 Petitioner did not satisfy at least three of the ten initial evidentiary criteria, or that her entry into the United States will substantially benefit prospectively 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 SCOPS' decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

(i) the alien has 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,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

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. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories 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 an evidentiary standard under 8 C.F.R. § 204.5(h)(3)(i)-(x) does not "readily apply" to a petitioner's occupation, the petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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, 1121 (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) (upholding USCIS' two-step review process as "consistent with the governing statute and regulation").

II. ANALYSIS

The Petitioner is seeking to be classified as an alien of extraordinary ability in the field of motion design and artificial intelligence-driven visual communication.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, the issue to be addressed on appeal is whether the Petitioner satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, SCOPS determined that the Petitioner did not fulfill any of the seven claimed evidentiary criteria:

- lesser nationally or internationally recognized awards or prizes,
- published materials about the individual in professional publications relating to work in the field,
- participation as a judge of others' work,
- original contributions of major significance,
- authorship of scholarly articles,
- display of work at artistic showcases or exhibitions, or
- leading or critical role.

8 C.F.R. § 204.5(h)(3)(i), (iii) - (viii).

On appeal, the Petitioner claims that the evidence demonstrates she meets the seven claimed criteria.

As discussed below, we conclude the Petitioner has satisfied the requirements of at least three criteria.[1]

1. "Published material about the alien in professional or major media trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation." 8 C.F.R. § 204.5(h)(3)(iii).

SCOPS determined that the articles submitted did not meet the criterion because some articles did not include an author and the evidence did not show that the articles were published in a professional or major media trade publication or other major media. We disagree with SCOPS' assessment of the evidence and conclude that some articles qualify for the criterion. For instance, the Petitioner submitted articles about her work in the field which were published in *Forbes Kazakhstan*, and the online publications, *Liter.kz* and *Caravan.kz*. The articles include the title, date, and author of the articles. In addition, the Petitioner submitted documentation about the publications and their circulation data. The evidence indicates that these published articles are about the Petitioner and her work in her field, and that they were published in major media in Kazakhstan.

Based on the evidence submitted, the Petitioner demonstrated by a preponderance of the evidence that she meets this criterion. We withdraw the SCOPS' findings to the contrary.

2. "Evidence of the alien's participation, either individually or on panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iv).

To meet the criterion, the Petitioner submitted evidence to show she participated as a judge of the motion design category at Markethon 5.0, International Creative Hackathon, which was held by [redacted] in [redacted] 2021. SCOPS determined that the Petitioner did not establish that she reviewed the work of others or otherwise acted as a judge of the work of others for this event, explaining that the evidence did not show that the Petitioner's role "in reviewing student projects equate[d] to participation as a judge of the work of others in the field." In addition, SCOPS noted that a recommendation letter did not include the authors' address. We do not agree with SCOPS' assessment of the evidence.

The Petitioner provided a certificate of appreciation and a letter from a senior manager of the [redacted] each of which confirms her participation as a judge in evaluating participants' work in the motion design category for Markethon 5.0. Moreover, the recommendation letter, a Markethon 5.0 informational summary, and an article about Markethon 5.0 indicate that participants at Markethon 5.0 included beginners and experienced creative market professionals who competed in the motion design category and "created animated assets for promotional campaigns." The recommendation letter clearly indicates it is from the senior manager of the [redacted] and points out that the Petitioner served as a judge alongside other industry professionals to "critically assess" participants' work for the motion design category and provide constructive feedback.

[1] While we may not discuss every document submitted, we have reviewed and considered each one.

Based on the evidence submitted, the Petitioner demonstrated by a preponderance of the evidence that she participated as a judge of the work of others in her field of motion design, and therefore, meets this criterion. We withdraw the SCOPS' findings to the contrary.

3. "Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media." 8 C.F.R. § 204.5(h)(3)(vi).

In the academic arena, a scholarly article reports on original research, experimentation or philosophical discourse, is written by a researcher or expert in the field who is often affiliated with a research institution, and will generally have footnotes, endnotes or a bibliography. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). For other fields a scholarly article should be written for learned persons in the field. *Id.* In evaluating whether a submitted publication is a professional publication, we consider the intended audience of the publication.

The Petitioner maintains she authored four articles, three published in journals and one in a conference publication. SCOPS determined that the conference paper did not satisfy the requirements for the criterion because foreign language pages of the conference paper were not accompanied by full English language translations. In addition, SCOPS determined the Petitioner did not demonstrate that the four articles were published in professional or major trade publications or other major media. SCOPS explained that the Petitioner did not submit "the circulation statistics and/or intended audience of the publications, as well as the date and/or author of the material" or "other circulation data to compare with those of [sic] these publications." We, however, disagree with SCOPS' assessment of the evidence for the article titled, [redacted] published in the *International Journal of Innovative Technologies in Social Science.* The record supports the Petitioner's claim that the article, which contains references and endnotes, was written for learned persons in the digital media profession and published in a professional publication. Therefore, we withdraw the SCOPS' determination that the Petitioner did not satisfy this criterion.

B. Benefit to the United States

An alien with extraordinary ability must also demonstrate that their "entry into the United States will substantially benefit prospectively the United States." Section 203(b)(1)(A)(iii) of the Act. Neither the Act nor regulations define the phrase "substantially benefit." But USCIS interprets it broadly. *See Matter of Price*, 20 I&N Dec. 953, 956 (Assoc. Comm'r 1994) (holding that a professional golfer would substantially benefit the United States "[g]iven the enormous popularity of golf in this country"); *see also Buletini v. INS*, 860 F. Supp. 1222, 1229 (E.D. Mich. 1994) (assuming that the United States would benefit from any alien with extraordinary ability working in the country in their field).

Contrary to SCOPS' finding, the Petitioner's statements and evidence in the record establish that her U.S. work would substantially benefit the country. The record includes a letter from her employer and articles about her field that indicate that the Petitioner intends to continue working in the fields of motion design and artificial intelligence-driven visual communication and that these fields are in need in the United States.

The Petitioner has demonstrated that her proposed U.S. work would substantially benefit the country. We will therefore withdraw SCOPS' contrary decision.

C. Basis for Remand

As discussed above, the Petitioner has demonstrated her prospective, substantial benefit to the United States. Further, the Petitioner has submitted the required initial evidence by satisfying at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3). However, granting the third initial criterion does not suffice to establish eligibility for classification as an individual of extraordinary ability.

The next step is to undertake a final merits determination to analyze whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim; that she is one of the small percentage at the very top of the field of endeavor; and that her achievements have been recognized in the field through extensive documentation. *See* section 203(b)(l)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian v. USCIS*, 596 F.3d at 1119-20; *see generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(2). A final merits determination involves analyzing an individual's accomplishments and weighing the totality of the evidence to determine if their achievements are sufficient to demonstrate extraordinary ability in the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d at 1119-20; *see generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(2). Rather than make such a determination in the first instance, we will remand the matter. SCOPS should consider any potentially relevant evidence of record, even it does not fit one of the regulatory criteria or is not comparable evidence. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(2). The Petitioner bears the burden of explaining the evidence's significance, and how it demonstrates her possession of sustained national or international acclaim and recognition in her field. *Id.* The petition's approval or denial should depend on the evidence's type and quality. *Id.*

III. CONCLUSION

The Petitioner demonstrated that that her entry into the United States will substantially benefit prospectively the United States under section 203(b)(l)(A)(3) of the Act and that she has satisfied the initial evidence requirements for this classification. Accordingly, we will remand the matter to SCOPS for a final merits determination. We express no opinion regarding the ultimate resolution of this case on remand.

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