U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39602724

Date: AUGUST 5, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a tattoo artist, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner met at least three of the initial evidentiary criteria. 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 individuals 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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, petitioners can demonstrate international recognition of their accomplishments in the field through a one-time achievement (that is, a major, internationally recognized award). If petitioners do not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). The regulation at 8 C.F.R. § 204.5(h)(4) allows petitioners to submit comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to their occupation.

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 (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 is a tattoo artist with over twenty years of experience working in Russia and the United States. The Petitioner claimed to qualify based on his receipt of a major, internationally recognized award and, in the alternative, by meeting six of the alternate initial evidentiary criteria relating to lesser awards, published material, judging, contributions, display, and high salary at 8 C.F.R. § 204.5(h)(3)(i), (iii), (iv), (v), (vii), and (ix). The Petitioner also claimed the criteria relating to membership in associations and commercial success at 8 C.F.R. § 204.5(h)(3)(ii) and (x) did not apply to his occupation and submitted comparable evidence of his brand sponsorships and high compensation. SCOPS determined the Petitioner did not establish that the criteria relating to membership and commercial success did not apply to his profession. SCOPS concluded the Petitioner met the criteria relating to judging and display, but not the remaining four criteria he claimed to meet. On appeal, the Petitioner asserts SCOPS misapplied the regulatory standards and failed to assess the documentation under the preponderance of the evidence standard.

A. One-Time Achievement

A petitioner may satisfy the initial evidence requirement through evidence of a one-time achievement, "that is, a major, international[ly] recognized award." 8 C.F.R. § 204.5(h)(3). Neither the Act nor the relevant regulations define a "major, internationally recognized" award or differentiate between such an award and a "lesser" award under the first, alternate evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(i). However, given Congress' intent to restrict this category to "that small percentage of individuals who have risen to the very top of their field of endeavor," the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), reprinted in 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739. The House Report specifically cited the Nobel Prize as an example of a one-time achievement. Other examples which enjoy major, international recognition may include the Pulitzer Prize, the Academy Award, and an Olympic Medal. Further, we must look to Congress' intent that "admission under this category is to be reserved for that small percentage of individuals who have risen to the very top of their field of endeavor." *Id.* Thus, consistent with legislative history, a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards.

The Petitioner asserts that his receipt of the Second Place, [redacted] award at the 2018 [redacted] is a major, internationally recognized award. The Petitioner submitted media articles indicating that this event is one of the world's largest tattoo exhibitions with artists from all

over the world participating in a number of tattoo contests. The articles state the Best of Show is the event's top and most prestigious award. The articles do not indicate that the Second Place [redacted] award has garnered similar prestige or international recognition. Although the evidence indicates that the [redacted] is an internationally recognized exhibition in the Petitioner's field, the record does not show that the Petitioner's receipt of the Second Place [redacted] award is a major, internationally recognized award.

B. Other Evidentiary Criteria

Because the Petitioner has not 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). SCOPS determined the Petitioner met the criteria relating to judging the work of others in the same field and display of the alien's work at artistic showcases at 8 C.F.R. § 204.5(h)(3)(iv) and (vii). The record supports SCOPS' determinations as it contains evidence that the Petitioner was a judge at the 2023 and 2024 [redacted] and at the [redacted] from 2018 to 2021, and that he displayed his work at 20 tattoo expositions and conventions between 2015 and 2024. For the reasons discussed below, the record supports the Director's determination that the Petitioner did not meet the criterion for lesser awards, but the record does not support the Director's determination that the Petitioner did not meet the criteria relating to published material, original contributions, and high salary.

Lesser Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to: the criteria used to grant the awards or prizes, the national or international significance of the awards or prizes in the field, the number of awardees or prize recipients, and limitations on competitors. *See generally* 6 USCIS Policy Manual F.2(B)(1), https://www.uscis.gov/policy-manual.

The Petitioner claims to have won six awards at five tattoo festivals and expositions. The Petitioner submitted photographs of the awards, photographs of him at the festivals and expositions, printouts of social media posts, and letters from organizers of two of the festivals and expositions. The evidence is insufficient to establish the Petitioner's receipt of four of the claimed awards as the awards themselves do not name him, the photographs do not identify him or the venue, and the printouts of social media posts purportedly announcing his receipt of the awards are illegible. However, the letters establish that the Petitioner won a Second Place award in Lettering at the 2018 [redacted], a First Place [redacted] award at the 2017 [redacted], and a Second Place [redacted] award at the 2014 [redacted]

While the record documents the Petitioner's receipt of these three awards, it is insufficient to establish that they were nationally or internationally recognized for excellence in the Petitioner's field. The record does not contain major media coverage or other evidence that awards granted at the [redacted] and the [redacted] are nationally or internationally recognized. The record also does not contain evidence of the criteria used to grant the awards, the number of awardees,

and any limitations on competitors, or other evidence that the awards are granted for excellence in the Petitioner's field. Consequently, the Petitioner does not meet this criterion.

Published Material

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought." Major media and major trade publications are assessed by their relative circulation, readership, or viewership. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner submitted copies of 13 articles about him published in online media and two tattoo magazines and evidence that his work was included in two books. The Petitioner also submitted information regarding the circulation, readership, viewership, number of monthly visits, and national and international rankings of the online media in which the articles were published. That information indicates that *CNews.Fr*, *Life.Ru*, and *LeFigaro.Fr* are major media in France and Russia. The evidence also indicates that *iNKPPL* and *Scene360* are major trade publications. Accordingly, the articles published in *CNews.Fr, Life.Ru, LeFigaro.Fr, iNKPPL,* and *Scene360* meet this criterion.

Original Contributions

The regulation at 8 C.F.R. § 204.5(h)(3)(v) requires "evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." Relevant evidence of the significance of an original contribution may include, but is not limited to: published materials about the significance of the alien's original work; letters providing details about how the alien's original work has been significant in the field; citation of the alien's published scholarly work at a level indicative of major significance; and patents or licenses deriving from the alien's work or evidence of its commercialization. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner claims to meet this criterion through his creation of the [redacted] tattoo style. Several of the media articles the Petitioner submitted credit him with this contribution. The Petitioner also submitted letters from other tattoo professionals explaining the major significance of the Petitioner's contribution. Five established and successful tattoo artists explain the significance of the Petitioner's [redacted] style. A-R- praises the Petitioner as the creator of [redacted] an "original style [that] has left an indelible mark on the industry, inspiring countless artists and becoming a defining hallmark of his career." A-R- explains that [redacted] "represents a unique [redacted] establishing a style that is now sought after by clients and admired by peers worldwide." A-M- explains the Petitioner "fundamentally transformed [his craft] by creating a groundbreaking tattoo genre known as [redacted] This innovation has earned him a distinguished place among the world's most influential tattoo artists and elevated the industry as a whole." A-S- praises the Petitioner's "innovation of [redacted] a genre he pioneered, and which . . . is unique, recognizable, and represents a contribution to the evolution of tattoo artistry that few other artists can claim to have made." L-V- explains the Petitioner "is the originator of the [redacted] genre, a style that combines [redacted]

[redacted] His innovation has reshaped artistic standards in tattooing and earned him international acclaim."

M-K-, Organizer of the International Moscow Tattoo Convention, confirms the Petitioner was a leading artist at the Convention in 2016, 2019, and 2021 and "is known throughout the international tattoo industry as the inventor of the [redacted] genre of tattoo artwork." A letter from [redacted] a tattoo ink company for which the Petitioner is a sponsored artist, states that his "groundbreaking creation of the [redacted] genre has had a profound impact on tattooing worldwide." C-P-, owner of [redacted] in California, explains the Petitioner is "the pioneer and original creator of the artistic style known as [redacted] a groundbreaking [redacted]. . . . His innovative approach has inspired a new wave of tattoo artists and calligraphers worldwide, cementing his legacy as a visionary in the evolution of modern tattoo typography."

The preponderance of the evidence establishes that the Petitioner's creation of the [redacted] genre is an original contribution of major significance to the tattoo industry and he meets this criterion.

High Salary

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) requires "evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. Comparative wage or remuneration data that is appropriate for the alien's occupation and location should be submitted to establish that a petitioner's compensation is high relative to others working in the field. *Id.*

The Petitioner claims to meet this criterion through his high compensation and rates of $2,000 a day or $333 an hour. The Petitioner's 2023 federal income tax return shows his wages or self-employment earnings were $160,200 and his gross receipts or sales were $130,872. The Petitioner also submitted bank statements showing he received numerous payments for tattoo deposits, work, and appointments for between $300 to $1,700. In addition, the Petitioner submitted: evidence from the Occupational Outlook Handbook that the median pay for craft and fine artists was $25.44 an hour or $52,910 a year; a 2022 Tattoo Smart Tattooist Hourly Rate Survey stating the average hourly rate in California where the Petitioner now works as $176.70 and as $106.67 in Russia where he used to work; a printout from Indeed stating the average salary of a tattoo artist in Los Angeles, California is $57,678; a printout from the Economic Research Institute stating the average salary of a tattoo artist in [redacted] California is $41,747; and a printout from Salary.com stating the 90th percentile of salaries for tattoo artists in [redacted] California is $88,131. The preponderance of this evidence shows that the Petitioner has commanded a high salary in relation to other tattoo artists and he meets this criterion.

Comparable Evidence

The Petitioner asserts the criterion at 8 C.F.R. § 204.5(h)(3)(ii) relating to membership in associations does not apply to the Petitioner's occupation because such memberships "are exceedingly rare in the

tattoo field." While tattoo associations may be rare, the Petitioner indicates that such associations exist. Consequently, the Petitioner has not shown that this criterion does not readily apply to his occupation. Nonetheless, the Petitioner's claimed comparable evidence of brand sponsorships has been considered in the following final merits determination.

The Petitioner correctly asserts that the criterion at 8 C.F.R. § 204.5(h)(3)(x) relating to commercial successes in the performing arts does not readily apply to his occupation in the visual arts. However, the record does not support the Petitioner's claim that his rates, sponsorships, exhibition invitations, merchandise collaboration, and press coverage are evidence comparable to this criterion. While such evidence reflects the Petitioner's accomplishments and standing in his field, it does not establish his commercial success. The Petitioner did not submit evidence of his total sales in relation to other professional tattoo artists, or other comparable evidence of commercial success. Nonetheless, the Petitioner's claimed comparable evidence of commercial success has been considered in the following final merits determination.

B. Final Merits Determination

The Petitioner has established that he meets the evidentiary criteria relating to published material, judging, original contributions, display, and high salary at 8 C.F.R. § 204.5(h)(3)(iii), (iv), (v), (vii) and (ix). As the Petitioner submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, that he is among the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze petitioners' accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

On appeal, the Petitioner claims a final merits determination shows he has extraordinary ability through consideration of his awards, media presence and publicity, judging and peer recognition, professional endorsements and sponsorships, and his significantly high remuneration. We have considered all of this evidence in our assessment.

As previously discussed, the record shows the Petitioner won a Second Place award in Lettering at the [redacted] in 2018 and a First Place [redacted] award at the 2017 [redacted] and a Second Place [redacted] award at the 2014 [redacted]. The record does not establish that these awards are nationally or internationally recognized. Moreover, the receipt of just two second place awards and one first place award in three years does not demonstrate sustained acclaim over the course of the Petitioner's over twenty-year long career.

While the record shows the Petitioner received media coverage from 2017 to 2024, only five articles were published in major trade publications or other major media. This limited coverage is not consistent with sustained national or international acclaim. Similarly, the Petitioner's limited service as a judge for one tattoo exposition and one tattoo festival does not reflect sustained national or international acclaim over the course of his over twenty-year long career. The record also does not indicate that the [redacted] and the [redacted] are

recognized as sponsoring leading competitions in the tattoo industry such that the Petitioner's service as a judge at these events would indicate that he is among the small percentage at the very top of his field. While the Petitioner submitted evidence that he commanded a high salary in his field in 2023 and 2024, he did not submit evidence that he consistently received such high compensation over the course of his career such that his salary would reflect sustained acclaim.

We have considered the evidence of the Petitioner's sponsorship with [redacted] a tattoo ink company, his Pro Team membership with [redacted] a tattoo care products company, and his collaboration with the [redacted] an apparel company. The record shows the Petitioner designed one t-shirt for the [redacted], but the Petitioner did not submit evidence of the sales of his t-shirt or further apparel collaborations with the [redacted] which would reflect sustained national or international acclaim.

Regarding the Petitioner's brand sponsorships, N-L-, a professional tattoo artist and resident at [redacted] explains that "[i]t is only artists at the very pinnacle of the industry, a small percentage of the artists working globally, who rise to a level of public visibility that makes them attractive as ambassadors for tattoo supply brands looking to expand their reach. In my experience, I would estimate that only 2-3% of my colleagues are sponsored or [redacted] tattoo artists." While the Petitioner's affiliations with [redacted] and [redacted] attest to his recognition as an acclaimed and successful tattoo artist, the record indicates that his affiliations with these companies have been limited to one to two years, which does not reflect sustained acclaim.

When considered in the aggregate, the evidence shows the Petitioner is a highly skilled and award-winning professional tattoo artist who is sponsored by two major tattoo product companies and has displayed his work at many international tattoo events. The record does not, however, demonstrate that the Petitioner has achieved sustained national or international acclaim in his field. The Petitioner's receipt of three awards and service as a judge at two tattoo events does not reflect sustained acclaim over the course of his career. The Petitioner's coverage in just five articles in major media and major trade publications, one apparel collaboration, and two brand sponsorships are also inconsistent with sustained acclaim as a tattoo artist at the very top of his field. When considered as a whole, the record is insufficient to establish that the Petitioner is among that small percentage at the very top of his field.

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing towards the top. The Petitioner has not shown that the significance and recognition of his work are indicative of sustained national or international acclaim as one of that small percentage who have risen to the very top of his field, as extraordinary ability is described at section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). The Petitioner is consequently ineligible for classification as an alien 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 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