U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38691487

Date: AUG. 08, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a marketing director, 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). 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.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner has sustained national or international acclaim and is among the small percentage at the very top of the field of endeavor. 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 visas available to immigrants with extraordinary ability if:

> (i) the [noncitizen] 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 [noncitizen] seeks to enter the United States to continue work in the area of extraordinary ability, and
>
> (iii) the [noncitizen'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 recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does 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) (including items such as awards, published material in certain media, and scholarly articles).

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

A. Analysis of Criteria

SCOPS determined that the Petitioner provided sufficient documentation to establish she met the following regulatory criteria at 8 C.F.R. § 204.5(h)(3):

> (iv) participated, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought;
>
> (viii) performed in a leading or critical role for organizations or establishments that have a distinguished reputation; and commanded a high salary or other significantly high remuneration for services, in relation to others in the field; and
>
> (ix) commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

B. Final Merits Determination

After concluding that the Petitioner submitted the requisite initial evidence to satisfy three criteria, SCOPS separately concluded in a final merits determination that the record did not demonstrate, by a preponderance of the evidence, her sustained national or international acclaim and that she is one of the small percentage at the very top of the field of endeavor whose achievements have been recognized in the field through extensive documentation.[1]

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[1] *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. *See also* U.S. Citizenship and Immigration Services (USCIS) Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM*

On appeal, the Petitioner acknowledges that under the two-part analysis for this classification, an individual can satisfy at least three criteria but nevertheless be unable to establish eligibility for this classification as part of a final merits determination. However, the Petitioner generally claims that SCOPS ignored critical evidence of her extraordinary ability (including relating to the criteria of high salary, participation as a judge, authorship of scholarly articles, and serving in a critical role), and "summarily" dismissed evidence she provided in response to a notice of intent to deny (NOID in the final merits determination in a manner that precludes any petitioner from establishing eligibility as a marketing director.

First, the Petitioner does not specify on appeal the evidence she believes SCOPS failed to address. Further, in the denial, SCOPS discussed in detail the evidence provided, including the additional letters from the Chief Operating Officer of [redacted], and [redacted] all of which the Petitioner provided in response to the NOID. After addressing these letters, as well as pertinent documents that she had previously provided, SCOPS ultimately concluded that the information in them pertaining to the Petitioner's roles, accomplishments, and achievements for these entities, and her salary at [redacted] (her employer), was not sufficient to establish her sustained national or international acclaim for purposes of establishing her eligibility for the requested classification. As discussed in the NOID, when USCIS provides a reasoned consideration to the petition, and has made adequate findings, it will not be required to specifically address each claim the Petitioner makes, nor is it necessary for it to address every piece of evidence the Petitioner presents. *Guaman-Loja v. Holder*, 707 F.3d 119, 123 (1st Cir. 2013) (citing *Martinez v. INS*, 970 F.2d 973, 976 (1st Cir.1992); *see also Kazemzadeh v. U.S. Atty. Gen.*, 577 F.3d 1341, 1351 (11th Cir. 2009); *Casalena v. U.S. INS*, 984 F.2d 105, 107 (4th Cir. 1993). Here, the record shows that SCOPS properly considered and addressed the letters the Petitioner provided in response to the NOID, as well as the remaining relevant evidence, in rendering the final merits determination. The Petitioner does not identify on appeal any specific errors in SCOPS' reasoning or analysis.

Finally, the Petitioner claims on appeal that the denial contained discussion of her nonimmigrant O-1 visa classification that is irrelevant and demonstrates SCOPS' misunderstanding of the process. However, SCOPS' acknowledgement of the Petitioner's nonimmigrant classification as an individual of extraordinary ability under section 101(a)(15)(O) of the Act, 8 U.S.C. § 1101(a)(15)(O), appropriately explains that this does not automatically establish she is eligible for immigrant classification as an individual of extraordinary ability under 203(b)(1)(A)(i) of the Act, as the eligibility requirements for the two classifications are distinct. *See 6 USCIS Policy Manual* F.2(B)(3), https://www.uscis.gov/policy-manual/ (advising that, where possible, the Form I-140 denial address an extraordinary ability visa classification petitioner's approval for O-1 nonimmigrant classification).

Consequently, on appeal, the Petitioner has made general, unsupported assertions of error in the SCOPS' denial but has not demonstrated, or provided additional evidence to show, that the denial was incorrect. Accordingly, on appeal, the Petitioner has not established her eligibility for the requested classification as an individual of extraordinary ability. The appeal will be dismissed for the above

Update AD11-14 4 (Dec. 22, 2010) (Policy Memo), https://www.uscis.gov/ legal-resources/policy-memoranda (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established by a preponderance of the evidence the required high level of expertise of the immigrant classification).

stated reasons. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

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.