U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37764589

Date: AUG. 12, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks to classify himself as an individual with "exceptional abilities in business . . . who ha[s] risen to the very top in the field of implementation of digital education transformation tools." *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, although the record satisfies at least three of the 10 initial evidentiary criteria, it does not show sustained national or international acclaim and demonstrate that the Petitioner 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 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 their 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 they must provide sufficient qualifying documentation that meets at least three of the 10 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).

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).

II. ANALYSIS

The Petitioner described his proposed endeavor as a "plan to continue my work in . . . the field of implementation of digital education transformation [to] improve the convenience of using both public and private information systems and services." He discussed potential positions in which he could pursue his plan and, in response to SCOPS' request for evidence, he submitted a job offer letter from [redacted] as an account management representative, although the record does not establish whether the Petitioner accepted the offer.[1]

As noted above, SCOPS concluded the record satisfies at least three of the 10 initial evidentiary criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). However, SCOPS determined that the record does not show sustained national or international acclaim and demonstrate that the Petitioner is among the small percentage at the very top of the field of endeavor. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)). On appeal, the Petitioner reasserts that the record not only satisfies at least three of the initial evidentiary criteria, it also shows he has sustained acclaim and demonstrates he is among the small percentage at the very top of the field of endeavor. For the reasons discussed below, the record does not support the conclusion that the Petitioner attained national or international acclaim, nor does it show how the Petitioner would have sustained such acclaim if he had attained it.

Black's Law Dictionary defines "sustain" as "to support or maintain, especially over a long period of time" or "to persist in making (an effort) over a long period of time." *Sustain*, Black's Law Dictionary (11th ed. 2019).

[1] A Form I-140, Immigrant Petition for Alien Workers, filed on behalf of a person with extraordinary ability need not have a U.S. job offer; however, "the petition must be accompanied by clear evidence that the person is coming to the United States to continue work in the area of expertise." 8 C.F.R. § 204.5(h)(5).

In general, evidence in this case pertaining to the respective evidentiary criteria is limited to a few instances or even a single instance, which typically occurred shortly before the Petitioner filed the Form I-140 in 2024; the evidence does not show that he persisted in making an effort over a long period of time. For example, evidence pertaining to the criterion at 8 C.F.R. § 204.5(h)(3)(iv) indicates the Petitioner judged the work of others at a single event, in 2022. Evidence pertaining to the criterion at 8 C.F.R. § 204.5(h)(3)(ii) informs the Petitioner became a member of an association in December 2022. Evidence pertaining to the criterion at 8 C.F.R. § 204.5(h)(3)(ix) is limited to the Petitioner's income in 2021. The Petitioner asserts that he made a few original contributions of major significance, pertaining to the criterion at 8 C.F.R. § 204.5(h)(3)(v), in 2020 and 2021. Evidence pertaining to the criterion at 8 C.F.R. § 204.5(h)(3)(iii) includes only three published materials about the Petitioner, dated April and June 2019, and August 2020, respectively. Similarly, evidence the Petitioner asserted relates to the criterion at 8 C.F.R. § 204.5(h)(3)(vii) involves his public speaking appearances at three events, dated July, November, and December 2019. While there is no definitive time frame on what constitutes sustained, given the record's evidence of limited and recent instances dated shortly before the Petitioner filed the Form I-140, it does not support the conclusion that the Petitioner had sustained national or international acclaim or a career of acclaimed work in the field. *See Sustain*, Black's Law Dictionary, *supra*; *and see generally*, 6 *USCIS Policy Manual* F.2(A)(1), https://www.uscis.gov/policy-manual (providing that there is no definitive time frame on what constitutes sustained). Further, the record does not support the conclusion that the evidence, pertaining to such limited instances, establishes the Petitioner's achievements have been recognized in the field of expertise, indicating that he is one of that small percentage who has risen to the very top of the field of endeavor. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

We acknowledge that evidence pertaining to the criterion at 8 C.F.R. § 204.5(h)(3)(viii), regarding whether the Petitioner performed in a leading or critical role, addresses his employment history at [redacted] in Kazakhstan from 2015 to 2023. However, the record does not establish his sustained national or international acclaim, he is one of the small percentage at the very top of the field of endeavor, and his achievements have been recognized in the field through extensive documentation. The Petitioner asserts that his "contributions over a 10-15-year career demonstrate continuous and influential engagement in his field, satisfying the Black's Law Dictionary definition of 'sustained' as 'persisting over a long period of time.'" However, the question in a final merits determination is not whether an individual has continuously and even influentially worked in a field over a long period of time—it is, in part, whether an individual has achievements that have been recognized in the field of expertise, and a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. *See id.* Moreover, we note that the Petitioner's employment history at [redacted] in Kazakhstan, addressed above, occurred between November 2015 and some point in 2023, a period of approximately eight years, ending shortly before he filed the Form I-140 in 2024. The Petitioner does not clarify what other employment to which he refers to total "a 10-15-year career," beyond his approximately eight-year employment at [redacted] in Kazakhstan, to establish the requisite level of acclaim by virtue of that employment. Thus, the record does not support the conclusion that he supported or maintained any particular degree of national or international acclaim in connection with his employment history.

The Petitioner submits letters of recommendation on appeal, which address topics including his employment history, contributions he made, and public speaking he performed. The letters generally

indicate that the Petitioner benefitted given companies, clients, and event participants. One recommendation letter opines that the Petitioner "demonstrated outstanding expertise in driving large-scale national projects." Another letter generally states that the Petitioner is among "the most highly regarded professionals in [Kazakhstan]," although it does not corroborate that generalized claim. Another letter opines that the Petitioner "contributed much to digital transformation of Azerbaijan." The other letters provide similar information. However, neither the recommendation letters submitted on appeal nor the remainder of the record establish that the Petitioner received national or international acclaim, beyond the esteem of discrete individuals or entities with whom he interacted, commensurate with being among the small percentage at the very top of the field of endeavor. For example, one individual's opinion that the Petitioner "contributed much to digital transformation of Azerbaijan" does not indicate that the Petitioner accrued national or international acclaim for having done so. Again, in a final merits analysis, we determine whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, he is one of the small percentage at the very top of the field of endeavor, and his achievements have been recognized in the field through extensive documentation. *See id.*

The Petitioner also asserts on appeal that SCOPS' statement that "'the Petitioner has not offered sufficient evidence that he meets that standard' . . . is in direct contradiction of USCIS policy and laws" and it fails to "articulate the specific reasons as to why the officer concluded that the [P]etitioner has not demonstrated by a preponderance of the evidence that [he] has extraordinary ability." However, that statement is, essentially, a thesis sentence in SCOPS' decision, followed by several paragraphs that specifically identify evidence addressed elsewhere in SCOPS' decision regarding the applicable criteria at 8 C.F.R. § 204.5(h)(3) and specific reasons why that evidence does not sufficiently demonstrate national or international acclaim, as contemplated by section 203(b)(1)(A) of the Act.

The Petitioner further indicates on appeal that SCOPS impermissibly required that his "influence must extend beyond his country of birth [because] the regulations . . . focus on merit rather than location." However, the full context of SCOPS' statement is as follows:

> For all the criteria [at 8 C.F.R. § 204.5(h)(3)] successfully met by the [P]etitioner the evidence provided appears limited to his country of birth, to range for only a couple of years and limited to one or two examples for each criterion met. While this evidence establishes his national acclaim in the field at that time, the [Act] and relevant regulations require that an individual demonstrate sustained acclaim in order to qualify for an immigrant visa under this highly selective classification.

Thus, SCOPS did not impose an impermissible geographic limitation on the Petitioner. Rather, SCOPS found the evidence indicative of national acclaim, but not international acclaim, as contemplated by section 203(b)(1)(A) of the Act; however, more problematically SCOPS noted, similar to our analysis above, that the evidence of few examples in limited periods of time do not demonstrate that the Petitioner sustained such acclaim. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)). We reiterate that, under de novo review, we disagree that the record establishes national acclaim, for the reasons addressed above. *See Matter of Christo's, Inc.*, 26 I&N Dec. at 537 n.2.

Because the Petitioner does not establish on appeal that the totality of the evidence provided shows his sustained national or international acclaim, that he is among the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation, the Petitioner is not eligible for the requested classification. *See Kazarian*, 596 F.3d at 1119-20 (citing section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3)).

III. CONCLUSION

The evidence meets at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). However, the totality of the record does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. *See Kazarian*, 596 F.3d at 1119-20. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). The Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. The record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field and that he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act; *see also* 8 C.F.R. § 204.5(h)(2).

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.