U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42727142

Date: AUG. 19, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, who describes himself as a technology entrepreneur specializing in logistics, 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.

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not establish that he has sustained national or international acclaim as one of the small percentage at the top of his field to demonstrate his eligibility as an individual of extraordinary ability. 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

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). *See also Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) (holding that extraordinary ability visas are known as "Einstein" visas, are extremely "coveted," and are "reserved for only the most talented aliens"). 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 achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or 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).

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. U.S. Citizenship & Immigr. Servs.*, 596 F.3d 1115, 1119-20 (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. U.S. Citizenship & Immigr. Servs.*, 772 F. Supp. 2d 1339, 1346 (W.D. Wash. 2011), *aff'd*, 683 F.3d 1030 (9th Cir. 2012).

The Petitioner has a master's degree in business administration from [redacted] University and has founded startup companies in the e-commerce sector, including one specializing in logistics for car and freight transportation serving clients such as [redacted] and [redacted] He has published articles on several topics, such as the use of artificial intelligence in transportation safety and logistics, and he co-founded an educational platform providing free Uzbek-language information technology courses to students in Uzbekistan.

As the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must demonstrate that he meets the initial evidence requirements by satisfying at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claimed to have satisfied the following criteria under 8 C.F.R. § 204.5(h)(3):

- (ii), Memberships in associations that require outstanding achievements;
- (iii), Published material about the alien in professional or major trade publications or other major media;
- (iv), Participation as a judge of the work of others in the same or an allied field;
- (v), Original contributions of major significance in the field;
- (vi), Authorship of scholarly articles in professional or trade publications;
- (viii), Performance in a leading or critical role for organizations that have a distinguished reputation; and
- (ix), Commandment of a high salary or other significantly high remuneration.

SCOPS determined that the Petitioner did not establish eligibility under 8 C.F.R. § 204.5(h)(3)(ii), (iii), (v), or (viii). However, SCOPS determined that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(iv), (vi), and (ix), pertaining to participation as a judge of the work of others, authorship

of scholarly articles, and commanding a high salary in relation to others in the field. In addition, upon review on appeal, we conclude that the Petitioner also meets the criterion regarding published material about the alien in major media. The record contains several articles about the Petitioner and his work, including one published by Daryo.uz. Rankings information and research from independent sources, such as the USAID's International Research & Exchanges Board (IREX) and the United Kingdom's Foreign Policy Centre, demonstrate that Daryo.uz is a major online media outlet in Uzbekistan. Accordingly, the Petitioner meets the plain language of the additional criterion at 8 C.F.R. § 204.5(h)(3)(iii). Therefore, we withdraw SCOPS' finding regarding this criterion. Because the Petitioner initially demonstrated that he met at least three of the initial evidentiary requirements, SCOPS proceeded to a final merits determination.

A final merits determination requires analyzing all of a petitioner's accomplishments and weighing the totality of the evidence to determine if they are among the small percentage at the top of their field and have sustained national or international acclaim 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) and (3); *see also Kazarian*, 596 F.3d at 1119-20; *and see generally* 6 *USCIS Policy Manual* at F.2(B)(2), https://www.uscis.gov/policy-manual.

As noted above, SCOPS concluded that the Petitioner did not establish that he has sustained national or international acclaim and is among the small percentage at the very top of his field. On appeal, the Petitioner asserts that SCOPS erred in its final merits determination by not analyzing the totality of the evidence. He discusses evidence previously submitted, emphasizing that SCOPS did not address arguments he posed concerning his sustained acclaim.

We will remand the matter because SCOPS' decision did not apprise the Petitioner of the deficiencies in the evidence of record in its final merits determination. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). The entirety of the final merits determination consists of a summary of requirements to establish an individual's extraordinary ability and a conclusion—absent analysis—that the Petitioner did not establish that he has sustained national or international acclaim and is among the small percentage at the very top of his field. The final merits determination offers no discussion of the evidence of record or explanation for SCOPS' conclusion to allow the Petitioner a meaningful opportunity to prepare an appeal. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal).

Again, an officer must explain the specific reasons for denying a petition. *See* 8 C.F.R. § 103.3(a)(1)(i). Accordingly, we remand this matter for entry of a new decision on final merits. On remand, SCOPS should review the entire record to determine whether the record shows sustained national or international acclaim and demonstrates that the Petitioner is among the small percentage at the very top of the field of endeavor. SCOPS need not consider whether additional evidentiary criteria are established. While the evidence of record may ultimately be insufficient to demonstrate the Petitioner's eligibility, the decision should discuss the insufficiencies in the evidence and adequately explain the reasons for ineligibility. In remanding, we express no opinion as to the ultimate resolution of the case.

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