U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38516726

Date: AUG. 25, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a Director of the English for Academic Purposes Program and Continuing Education, 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 that the Petitioner did not establish she met the initial evidence requirement for this classification through evidence of either a one-time achievement or because she meets three of the alternative evidentiary criteria under 8 C.F.R. § 204.5(h)(3). 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 immigrant 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 international 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 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

The Petitioner intends to continue her work as Director of the English for Academic Purposes Program and Continuing Education for [redacted].

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claimed before SCOPS that she met three of the regulatory criteria. SCOPS determined the Petitioner met only two of the claimed criteria at 8 C.F.R. §§ 204.5(h)(3)(iv) and (vi), which respectively, relate to the Petitioner's participation as a judge of the work of others in the field and authorship of scholarly articles in the field. We concur with this determination. On appeal, the Petitioner asserts she also meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii) due to her performance in a leading or critical role for a distinguished organization or establishment. Upon de novo review, we conclude the Petitioner has not met the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

When adjudicating this requirement, U.S. Citizenship and Immigration Services (USCIS) first determines whether a petitioner has performed a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. *See generally* 6 *USCIS Policy Manual* F.2(B), https://www.uscis.gov/policymanual. USCIS then determines whether the organization, establishment, or department or division for which a petitioner held a leading or critical role has a distinguished reputation. *Id.* Organization, establishments, or departments or divisions that enjoy a distinguished reputation are "marked by eminence, distinction, or excellence." *See generally* 6 *USCIS Policy Manual*, supra, F.2(B)(1) (citing to the definition of distinguished from Merriam-Webster, https://www.merriamwebster.com/dictionary).

SCOPS determined the Petitioner, a director of the English for Academic Purposes program and continuing education, demonstrated she has performed a leading or critical role for an organization. However, SCOPS did not find the Petitioner established the organization for which she holds a leading

or critical role, [redacted], has a distinguished reputation. SCOPS determined the relevant evidence submitted by the Petitioner, including letters, information about her position, and printouts related to [redacted] did not establish [redacted]s distinguished reputation.

On appeal, the Petitioner asserts SCOPS did not indicate in its request for evidence that the record was insufficient to establish [redacted] is an establishment or organization with a distinguished reputation. As such, the Petitioner claims she was "unfairly prejudiced by being unable to supplement the record" or SCOPS "misapplied the facts," of the "very strong evidentiary record before it." As stated, our consideration of the Petitioner's appeal is de novo and, accordingly, the Petitioner has had the opportunity to supplement the record on appeal.

The Petitioner also asserts on appeal that [redacted]s provision of "affordable access to high-level education, invaluable skills, and workforce training" has significance and value. The Petitioner contends that U.S. government representatives have acknowledged the importance of community colleges in its provision of education in cutting-edge fields, small class sizes for international students as they adjust to U.S. academic life, apprenticeships, training, and career pathways. The Petitioner highlights evidence related to her claim that [redacted] is a distinguished organization, including articles indicating: [redacted] has the sole [redacted] for its English for Academic Purposes program among 48 community colleges in North Carolina; ten [redacted] students were selected as [redacted], the most among the other state community colleges; one [redacted] student received the [redacted] Awards, bestowed by the [redacted] system; a multi-million dollar donation was received from a company; [redacted] received an award recognizing the excellence of a program amongst two-year colleges in the state; [redacted] was one of 16 colleges selected to participate in a pilot program to improve economic outcomes; seven students received [redacted] scholarships that allowed them to attend [redacted], and [redacted] was selected by an online article as the third best community college in the United States. Similarly, the Petitioner highlights awards received by the alumni and faculty of [redacted].

The USCIS Policy Manual indicates a positive factor for an academic institution in this criterion would be "relevant and credible *national* rankings." 6 *USCIS Policy Manual*, supra, F.2(B)(1) (emphasis added). However, the listed evidence submitted by the Petitioner largely relates to the general value and need for community colleges and whether [redacted] is distinguished in an overly narrow category, community colleges within the single state of North Carolina. Similarly, the relevant media coverage, as listed above, for [redacted] consists of articles circulated by [redacted] itself and an online article from [redacted], a "consumer-focused financial information and advice" website selecting [redacted] as the third-best community college in the United States.. However, the article indicates it only considered 616 two-year schools that offer associate degrees in compiling the list and its rankings were "based on their retention rates, student-to-faculty ration, and tuition and fees." Based on the limited pool and metrics utilized, the Petitioner has not demonstrated the relevance and reliability of this national ranking to demonstrate the distinguished nature of [redacted] *See generally* 6 *USCIS Policy Manual*, supra, F.2(B)(1) (including a relevant and credible national ranking as a positive factor for academic institutions for this criterion and relevant media coverage as a factor in evaluating the reputation of an organization).

The Petitioner previously stated before SCOPS that [redacted] was founded in 1961 and serves approximately 20,000 students. However, the record does not provide supporting documentation for these figures or relative figures that would provide context for these claims. *See generally* 6 *USCIS Policy Manual,* supra, F.2(B)(1) (indicating the *relative* size or longevity of an organization or establishment is not in and of itself a determining factor but is considered with other information to determine whether a distinguished reputation exists). In addition, the Petitioner references the USCIS Policy Manual in asserting grants received from the [redacted] System, [redacted], the Department of Education, and the National Science Foundation should be considered a positive factor for this criterion. According to the USCIS Policy Manual, receipt of government research grants may be considered a positive factor for academic institutions. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1). However, the Petitioner has not demonstrated that any government grant received by [redacted] was for the specific purpose of research. Based on the above, we concur with SCOPS that the Petitioner has not sufficiently demonstrated the organization or establishment in which she held a leading or critical role has a distinguished reputation.[1] Accordingly, the Petitioner has not satisfied at least three of the initial evidentiary criteria, as 8 C.F.R. § 204.5(h)(3) requires.

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that they are an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25 (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility 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 who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings

[1] We note that as the Director of the English for Academic Purposes program and continuing education, the Petitioner appears to have demonstrated she has performed a leading or critical role in this specific division or department of an organization or establishment. As such, USCIS would determine whether the department or division for which the Petitioner holds a leading or critical role has a distinguished reputation. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1). However, as we have determined the Petitioner has not met her burden of demonstrating [redacted] distinguished reputation, we need not herein consider whether she has established the distinguished reputation of her specific department within [redacted]

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.