U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39896312

Date: AUG. 28, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a performing artist, 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, as required, that she meets the initial evidence requirements for this classification, either through her receipt of a major, internationally recognized award, or by satisfying at least three of the ten evidentiary criteria set forth in the regulations. 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). While we conduct de novo review on appeal, *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that a remand is warranted in this case because SCOPS's decision, which lacks discussion of the evidence in the record, is insufficient for review. Accordingly, we will withdraw SCOPS's decision and remand the matter for entry of a new decision consistent with the following analysis.

An alien is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the country to continue working in the area of extraordinary ability; and their entry into the United States will substantially benefit the country.

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 provide evidence of a one-time achievement (that is, a major, internationally recognized award). If a petitioner does not submit this evidence, then they must provide documentation that they meet 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 demonstrates that they meet 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 they are 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).

Here, because the Petitioner has not indicated or established her receipt of 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 that she could meet five of the ten criteria and submitted relevant supporting evidence. Specifically, the Petitioner stated she was providing evidence of published materials about her and her work; evidence that she had participated as a judge of the work of others in her field; evidence of the display of her work at artistic showcases or exhibitions; evidence of her performance in a leading or critical role for organizations with a distinguished reputation; and evidence of her commanding a high salary or other significantly high remuneration for services, in relation to others in her field. *See* 8 C.F.R. § 204.5(h)(3)(iii), (iv), (vii), (viii) and (ix).

SCOPS determined that the Petitioner demonstrated she has participated as a judge of the work of others in her field and that her work in the field was displayed at artistic exhibitions or showcases, therefore satisfies the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vii). The record supports this determination. However, SCOPS concluded that the Petitioner did not submit evidence demonstrating that she met any of the three remaining claimed criteria.

On appeal, the Petitioner asserts that SCOPS's decision contains conclusory findings regarding her eligibility under the regulatory criteria and does not reflect a sufficiently reasoned consideration of the evidence she submitted in support of the petition. She further contends that the lack of explanation hindered her ability to effectively appeal SCOPS's findings.

We agree that SCOPS's determinations with respect to the claimed evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(iii), (viii) and (ix) were conclusory and did not adequately address the Petitioner's specific claims and evidence. SCOPS's discussions of the individual criteria were limited to one or two sentences, contained no direct references to the specific evidence the Petitioner provided (either at the time of filing or in response to the RFE), and provided insufficient explanation as to why the evidence was deemed insufficient to satisfy the plain language of the criteria.

When denying a petition, SCOPS must explain in writing the specific reasons for denial. 8 C.F.R. § 103.3(a)(1)(i). This explanation should be sufficient to allow a petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *Cf., Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding at a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, SCOPS's decision did not satisfy this requirement.

Accordingly, we will withdraw the decision and remand the matter to SCOPS. SCOPS may request any additional evidence considered pertinent to the new determination and any other issues. As such, we express no opinion regarding ultimate resolution of this matter on remand.

On remand, SCOPS is instructed to reevaluate the evidence submitted in support of the petition to determine whether the Petitioner satisfied the plain language of at least three evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), and to issue a new decision according to the requirements of 8 C.F.R. § 103.3(a)(1)(i).

If SCOPS determines that the Petitioner satisfied at least three criteria at 8 C.F.R. § 204.5(h)(3), SCOPS must conduct a final merits determination, and the new decision should evaluate, based on the totality of the evidence in the record, whether the Petitioner has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim, that she is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2); *see also Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). In addition, SCOPS should evaluate whether the Petitioner established that she seeks to enter the United States to continue work in the area of extraordinary ability and that her entry into the United States will substantially benefit prospectively the United States, as required by sections 203(b)(1)(A)(ii) and (iii) of the Act.

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