U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39938526

Date: AUG. 29, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an architect from China, 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.

SCOPS denied the petition, concluding the record did not establish the Petitioner qualifies as an individual of extraordinary ability either as the recipient of a major, internationally recognized award, or at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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 dismiss the appeal.

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). Before SCOPS, he asserted he met the criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iv), (viii), and (ix) for membership in associations that require outstanding achievements; participating as a judge of work of others in his field; leading or critical role for distinguished organizations or establishments; and, high remuneration for services. SCOPS found that the Petitioner did not meet any of the asserted criteria.

We adopt and affirm SCOPS's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted"). On his notice of appeal, the Petitioner only challenged the denial of the criterion found in 8 C.F.R. § 204.5(h)(3)(ii), membership in associations that require outstanding achievements. However, the Petitioner has not identified a specific error related to this criterion but rather broadly disagrees with SCOPS's conclusions of his eligibility and does not specifically demonstrate how the evidence in the record

meets his burden of proof. Moreover, he has not addressed the evidentiary deficiencies SCOPS identified. As such, he has not overcome SCOPS's determination under this criterion.

On the notice of appeal, the Petitioner also indicated that he would be submitting a brief within 30 days directly to the AAO; at the time of this decision, he has not submitted a brief. The notice of appeal contains no evidence or arguments addressing the Director's determination for the criteria at 8 C.F.R. § 204.5(h)(3)((iv), (viii) and (ix), participating as a judge of work of others in his field; leading or critical role for distinguished organizations or establishments; and, high remuneration for services. Therefore, we consider these three issues to be waived. *See Matter of R-A-M-*, 25 I&N Dec. 657. 658 n.2 (BIA 2012) (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived); *see also Sepulveda v. U.S. Att'v Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005) (citing *United States v. Cunningham*, 161 F.3d 1343, 1344 (11th Cir. 1998)).

The Petitioner claimed eligibility for four criteria. He did not establish eligibility for any. As such, he cannot meet the required three criteria necessary to progress to a final merits determination as referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a determination that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. U.S. Citizenship and Immigration Services 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). Here, the record as a whole does not demonstrate a level of recognition that indicates the required sustained national or international acclaim or demonstrates 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. Moreover, the record does not otherwise demonstrate that the Petitioner 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 and 8 C.F.R. § 204.5(h)(2).

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

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.