U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40457749

Date: DEC. 3, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-129, Petition for a Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, an individual who intends to represent the Beneficiary as his agent,[1] seeks to classify the Beneficiary as an O-1 nonimmigrant, to work as an actor and a production crew member in the United States. The O-1 nonimmigrant visa classification is available to aliens who can demonstrate a record of extraordinary achievement in motion picture and television productions, and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) Section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

SCOPS denied the petition, concluding that the Petitioner did not satisfy, as required, the evidentiary criteria applicable to individuals of extraordinary achievement in the motion picture or television industry: nomination for or receipt of significant national or international prizes or awards, or submission of evidence meeting at least three of six possible forms of documentation. 8 C.F.R. § 214.2(o)(3)(v)(A)-(B). 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 101(a)(15)(O)(i) of the Act establishes O-1 classification for an alien who has, with regard to motion picture and television productions, a demonstrated record of extraordinary achievements that have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary achievement. The regulation at 8 C.F.R. 214.2(o)(3)(ii) explains that "[e]xtraordinary achievement with respect to motion picture and television productions, as commonly defined in the industry, means a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the motion picture or television field."

[1] In an April 2024 letter, the Petitioner indicates that the Beneficiary is her grandson.

The relevant regulations set forth the initial evidentiary criteria for establishing an alien's record of extraordinary achievement. First, a petitioner can submit evidence of the beneficiary's nomination for, or receipt of, significant national or international awards or prizes in the field, such as an Academy Award, an Emmy, a Grammy, or a Director's Guild Award. 8 C.F.R. § 214.2(o)(3)(v)(A). If the petitioner does not offer this type of evidence, then he or she must submit sufficient qualifying materials that satisfy at least three of the six forms of documentation listed under 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*)-(*6*).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818 (Aug. 15, 1994) (stating that "[t]he evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met"). Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence establish eligibility for O-1 classification under Section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (v).

In addition, the *U.S. Citizenship and Immigration Services* (*USCIS*) *Policy Manual* explains that an alien could be classified as an O-1 nonimmigrant if he or she is:

> (1) An alien of extraordinary ability in the sciences, education, business, or athletics (commonly referred to as O-1A),
>
> (2) An alien of extraordinary ability in the arts (commonly referred to as O-1B (Arts)), or
>
> (3) An alien of extraordinary achievement in motion picture and television productions (commonly referred to as O-1B (MPTV))

2 *USCIS Policy Manual* M.4(A), https://www.uscis.gov/policy-manual/volume-2-part-m-chapter-4; *see also* 8 C.F.R. § 214.2(o)(3)(iii)-(v).

USCIS Policy Manual further explains how USCIS determines if a petition should be adjudicated under the requirements for O-1B (Arts) pursuant to 8 C.F.R. § 214.2(o)(3)(iv), (5)(ii), or for O-1B (MPTV) pursuant to 8 C.F.R. § 214.2(o)(3)(v), (5)(iii), stating, in pertinent part:

> Some petitions may have elements of both O-1B (Arts) and O-1B (MPTV) classifications and it may not be clear which O-1B classification and definitional standard an officer should apply . . . .
>
> Analysis of whether a production is within the motion picture or television industry is not limited to whether it will air on a television screen or in a movie theater, as the industry has grown to encompass some online content. While static web materials and self-produced video blogs and social media content generally do not fall into the MPTV category, USCIS considers streaming movies, web series, commercials, and other programs with formats that correspond to more traditional motion picture and television productions to generally fall within the MPTV industry's purview . . . . Accordingly,

USCIS may properly consider work on such productions to fall under the O-1B (MPTV) classification.

USCIS interprets the eligibility requirements for O-1B (MPTV) to apply if the beneficiary will perform services for motion picture or television productions while in the United States regardless of other prospective services outside the MPTV industry. If, however, an artist's work or appearance on an MPTV production is incidental to their non-MPTV work as an artist, the O-1B (MPTV) classification may not be appropriate, and the person may instead seek classification under O-1B (Arts). For example, USCIS does not necessarily consider artists who will be interviewed or will otherwise appear discussing, demonstrating, or promoting their work as an artist in an MPTV production to be working in the MPTV industry. This interpretation reflects USCIS' longstanding practice, and is consistent with the statute, which includes more stringent consultation requirements for aliens "seeking entry for a motion picture or television production," and describes eligibility for aliens in this industry separately from those in the "arts," notwithstanding the artistic nature of their work.[2]

USCIS generally does consider the people employed by the production company to conduct the interview, film the broadcasts, or otherwise perform as paid professionals, to be working in the MPTV industry. Similarly, USCIS considers persons such as hosts or judges cast in a reality-based production to be working in the MPTV industry whereas USCIS does not consider the contestants to be working in the MPTV industry.

See generally 2 *USCIS Policy Manual*, *supra*, at M.4(A).

II. ANALYSIS

In this case, the Petitioner must demonstrate that the Beneficiary qualifies for the O-1B (MPTV) classification under 8 C.F.R. § 214.2(o)(3)(v), (5)(iii), because the evidence shows that the Beneficiary intends to perform services for motion picture or television industry while in the United States. Specifically, the Petitioner offers a document entitled "O1 Visa Itinerary 2024-2026," indicating that while in the United States, the Beneficiary will work as a "Script Supervisor" for "[redacted]," a "Script Supervisor" in a "Fragmentation short film" project for "[redacted]," an "Actor/Script Supervisor" in a "[redacted]" project for "[redacted]," as well as perform services outside the MPTV industry. The record includes an April 2025 letter from the [redacted], stating that the Beneficiary intends to "serve as a performer in the feature film, [redacted]," while in the United States.

Other evidence in the record also supports a finding that the Beneficiary will perform services for motion picture or television industry while in the United States. For example, to support her claim that the Beneficiary is eligible for an O-1 nonimmigrant classification, the Petitioner claims that the Beneficiary has extensive experience in the motion picture or television industry. She alleges, through

[2] *USCIS Policy Manual* cites Sections 101(a)(15)(O)(i) and 214(c)(3) of the Act, 8 U.S.C. § 1101(a)(15)(O)(i), 8 U.S.C. § 1184(c)(3).

a November 2024 letter from her counsel, that the Beneficiary "starred as '[redacted]' in the smash hit TV series [redacted] for [redacted]"; "starred in [redacted] on [redacted]," a television network in Colombia; "had leading roles in international award-winning short films"; and "has worked extensively in productions for the [redacted]," a network in the United States. In response to SCOPS' request for evidence (RFE), the Petitioner presents another version of the "O1 Visa Itinerary 2024-2026." This version, like the earlier version, claims that while in the United States, the Beneficiary will work in the motion picture or television industry, including working on a "Fragmentation short film" project for "[redacted]" and a "[redacted]" project for "[redacted]" Based on these materials, SCOPS concluded that the Petitioner must demonstrate that the Beneficiary qualifies for the O-1B (MPTV) classification under 8 C.F.R. § 214.2(o)(3)(v), (5)(iii),[3] not the O-1B (Arts) classification under 8 C.F.R. § 214.2(o)(3)(iv), (5)(ii). *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(A).

On appeal, the Petitioner does not challenge this finding or address this issue. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012), indicating that any ground of ineligibility that is not raised on appeal is waived). Rather, the Petitioner reiterates that the Beneficiary "starred for [redacted]" in the television series [redacted], and was "the star of [redacted]" as well as "the lead performer in [redacted]," which are two productions that purportedly received movie and film accolades, and maintains that she has shown eligibility to classify the Beneficiary as an alien of extraordinary ability in the arts (O-1B (Arts)).

While the requirements for the O-1B (Arts) classification and the O-1B (MPTV) classification share some similarities, they are in fact distinct. As relating to the O-1B (Arts) classification, the petitioner must demonstrate that the beneficiary has extraordinary ability in the arts. *See* 8 C.F.R. § 214.2(o)(3)(iv). The regulation defines "extraordinary ability in the arts" to mean "distinction" and defines "distinction" to mean "a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts." 8 C.F.R. § 214.2(o)(3)(ii). Additionally, the petitioner may offer comparable evidence to show eligibility for the O-1B (Arts) classification. *See* 8 C.F.R. § 214.2(o)(3)(iv)(C).

On the other hand, as relating to the O-1B (MPTV) classification, the petitioner must demonstrate that the beneficiary has extraordinary achievement in the motion picture or television industry. *See* 8 C.F.R. § 214.2(o)(3)(v). The regulation states: "extraordinary achievement with respect to motion picture and television productions, as commonly defined in the industry, means a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the motion picture or television field." 8 C.F.R. § 214.2(o)(3)(ii). Additionally, the petitioner may not present comparable evidence to show eligibility for the O-1B (MPTV) classification. *See* 8 C.F.R. § 214.2(o)(3)(v). Indeed, as discussed in the *USCIS Policy Manual*, the difference in requirements between the O-1B (Arts) classification and the O-1B (MPTV) classification "reflects USCIS' longstanding practice, and is consistent with the statute,

[3] SCOPS communicated this issue with the Petitioner in the RFE, noting specifically that "[t]he O-1B classification applies to individuals with extraordinary achievement in the motion picture and/or television industry," and including headings such as "I-129 O-1B Extraordinary Achievement in the Motion Picture or Television Industry," "General Requirements for All O-1B MPTV Nonimmigrant Petitions," and "Evidence of Extraordinary Achievement in the Field of Endeavor."

which includes more stringent consultation requirements for aliens 'seeking entry for a motion picture or television production,' and describes eligibility for aliens in this industry separately from those in the 'arts,' notwithstanding the artistic nature of their work." *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(A).

In the decision denying the petition, SCOPS discussed the evidence in the record, concluding that the Petitioner failed to satisfy the requirements under 8 C.F.R. § 214.2(o)(3)(v) and failed to establish eligibility to classify the Beneficiary as an alien of extraordinary achievement in motion picture and television productions (O-1B (MPTV)). *See also* 8 C.F.R. § 214.2(o)(3)(ii), (5)(iii). On appeal, the Petitioner does not specifically challenge or discuss SCOPS's determination on the O-1B (MPTV) classification. As such, she has waived this ground of ineligibility and has not established eligibility for O-1B (MPTV) classification. *See Matter of O-R-E-*, 28 I&N Dec. at 336 n.5. Instead, on appeal, the Petitioner argues that she has shown eligibility to classify the Beneficiary as an alien of extraordinary ability in the arts (O-1B (Arts)) and discusses regulatory requirements under 8 C.F.R. § 214.2(o)(3)(iv). She also claimed through her counsel's November 2024 letter that she has established eligibility for the O-1B (Arts) classification based on comparable evidence. *See* 8 C.F.R. § 214.2(o)(3)(iv)(C). As discussed, however, the Petitioner cannot claim eligibility to classify the Beneficiary as an O-1B (Arts) nonimmigrant because the Beneficiary intends to perform services for motion picture or television industry while in the United States. *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(A).

III. CONCLUSION

Based on the reasons we have discussed above, the Petitioner has not established eligibility to classify the Beneficiary as an O-1 nonimmigrant who has a record of extraordinary achievements in motion picture and television productions, and whose achievements have been recognized in the field through extensive documentation. *See* Section 101(a)(15)(O)(i) of the Act; *see generally* 2 *USCIS Policy Manual*, *supra*, at M.4(A).

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.