U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40003139

Date: DEC. 04, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a Brazilian jiu-jitsu (BJJ) athlete and coach, 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.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner met the initial evidentiary requirements through evidence of a one-time achievement or meeting at least three of the evidentiary criteria at 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) 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). 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 states that he "excelled" in BJJ and during more than two decades he built a career as a professional athlete, coach, referee, and instructor. He stated that he "medaled in international championships, served as a head coach and mentor for elite academies including [redacted], and trained law enforcement officers across Brazil and the United States in humane, tactical defense techniques."

Because the Petitioner has not indicated or established that he has 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). The Petitioner initially claimed that he met six of these criteria:

- (i), Lesser nationally or internationally recognized awards or prizes;
- (ii), Memberships in associations that require outstanding achievements;
- (iii), Published materials in major trade or professional publications or other major media;
- (iv), Participating as a judge of the work of others in the field;
- (viii), Performing in leading or critical roles for organizations or establishments with a distinguished reputation; and
- (ix), High salary in relation to others.

SCOPS determined that the Petitioner did not meet any of the criteria he claimed to have satisfied. On appeal, the Petitioner generally asserts SCOPS overlooked certain evidence and failed to apply the preponderance of the evidence standard to the facts presented. He maintains on appeal that he satisfies four of the previously claimed criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii), (viii) and, (ix). Because the Petitioner does not address or appeal SCOPS' additional conclusions that he did not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ii), relating to membership in associations which require outstanding achievements of their members as judged by recognized national or internation experts in

the field, and (iv), participating as a judge of the work of others in the field, we consider these issue to be waived. An issue not raised on appeal is waived. *See, e.g.*, *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)).

A. Evidentiary Criteria

> *Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

On appeal, the Petitioner states that he was awarded multiple medals and podium placements in international competitions sanctioned by the [redacted], including national titles and top three finishes in open tournaments. In support of this claim, the Petitioner submitted a letter from the executive director of [redacted] that listed several awards granted to the Petitioner in [redacted] competitions. However, the Petitioner does not provide additional information about the awards, including the criteria used to grant the awards, the national or international significance of the awards, the number of awardees, or limitations on competitors. *See* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual. Further, the record did not include sufficient information to establish either the [redacted] competitions or the Petitioner's attainment of these awards garnered national or international-level media coverage to satisfy the plain language requirements that these are nationally or internationally recognized. For these reasons, the Petitioner has not submitted documentation that satisfies this criterion.

> *Published material about the noncitizen in professional or major trade publications or other major media, relating to the noncitizen's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

To establish this criterion, the Petitioner must demonstrate the existence of published material about him in professional or major trade publications or other major media, including the title, date, and author of the material.[1] If the record supports those regulatory requirements, we will then decide whether professional or major trade publications or other major media published those materials.

The Director determined that the Petitioner did not establish that the submitted articles were from a professional publication, major trade publication, or major media publication, as required. The Petitioner submitted two identical articles published in *The Newsroom* and *Tatami.com* that discussed his career in the United States as a BJJ coach and instructor. However, the Petitioner did not provide any evidence to establish that the articles were published in major media. Evidence of published material in major media publications about the Petitioner should establish that the circulation (online or in print) or viewership is high compared to other statistics and identify the intended audience. *See generally* 6 *USCIS Policy Manual* F.2 (Appendices), https://www.uscis.gov/policymanual (discussing circulation or viewership). The Petitioner did not submit material establishing the circulation statistics for *Tatam.com* or *The Newsroom*, nor did he provide other circulation statistics in which to compare

[1] *See generally* 6 USCIS Policy Manual, supra, at F.2(B)(2) appendix.

with these publications. The Petitioner does not specifically articulate why articles published online should be considered professional or major trade publications or other major media.

After reviewing the totality of the evidence submitted in support of this criterion, the Petitioner has not met his burden of proof to demonstrate his eligibility under 8 C.F.R. § 204.5(h)(3)(iii).

> *Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

To qualify under this criterion, a petitioner must show that they played a leading or critical role for an organization or establishment, and that the organization or establishment has a distinguished reputation. When evaluating whether a role is leading, we look at whether the evidence establishes that the person is or was a leader within the organization, or a department or division thereof. A title, with appropriate matching duties, can help to establish that a role is or was leading. For a critical role, we look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

To support that an organization has a distinguished reputation, the relative size or longevity of an organization is considered together with other relevant information, such as the scale of its customer base or relevant media coverage. "Merriam-Webster's online dictionary defines 'distinguished' as 'marked by eminence, distinction, or excellence' or 'befitting an eminent person.'" *Id.*

On appeal, the Petitioner contends that he "holds a critical leadership role at [redacted], one of the largest and most respected Brazilian Jiu-Jitsu institutions globally." He stated that he served as head coach, operations manager, and a co-owner of a newly launched [redacted]. On appeal, he submits tax records and financial documents of [redacted] and a performance analysis report of the [redacted] indicating that student enrollment and total revenue grew once the Petitioner started working at that location. The Petitioner also submits two letters of recommendation generally asserting that the Petitioner is a great coach and is helping the growth of the [redacted]. However, the letters do not provide sufficient evidence that the Petitioner is in a leading or critical role within the [redacted].

This criterion also requires the organization or establishment, or the department or division for which the person holds or held a leading or critical role, to have a distinguished reputation.[2] *Meriam-Webster's* online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "benefitting an eminent person."[3] Although the Petitioner claims that the [redacted] is "one of the largest and most respected Brazilian Jiu-Jitsu institutions globally," the Petitioner did not provide any corroborating evidence for this claim. The record does not establish that the [redacted] has a distinguished reputation.

[2] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).
[3] *Id.*

Based on the record, including the documents discussed above, SCOPS properly concluded that the Petitioner's evidence does not establish that he performed in a leading or critical role for certain organizations that have a distinguished reputation.

B. Summary and Reserved Issue

The record does not establish that the Petitioner meets at least three of the initial evidentiary criteria discussed above. As such, the Petitioner has not met the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). Detailed discussion of the remaining criteria at 8 C.F.R. § 204.5(h)(3)(ix) cannot change the outcome of the appeal. Therefore, we reserve and will not address these remaining issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *see also Matter of D-L-S-*, 28 I&N Dec. 568, 576–77 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

For the reasons discussed above, we agree with SCOPS that the Petitioner is not eligible because he has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). 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 he is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Matter of 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. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

The Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability under section 203(b)(1)(A) of the Act. The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

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.