U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40137797

Date: DEC. 05, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a salsa dancer, choreographer, and instructor, seeks classification as an alien of extraordinary ability. Section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who 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 satisfy the initial evidentiary criteria as set forth in 8 C.F.R. § 204.5(h)(3)(i)-(x). We dismissed the Petitioner's appeal and her two subsequent combined motions to reopen and reconsider. This matter is now before us on a third combined motion to reopen and reconsider. Upon review, we will dismiss the motion.

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must show that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). The scope of a motion is limited to the prior decision and we will thus only review our latest decision. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant a motion that meets these requirements and establishes eligibility for the benefit sought. *Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (holding that a party seeking reopening bears a heavy burden of proving that the new evidence would likely change the outcome). The Petitioner must establish her eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

Section 203(b)(1)(A) 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 this country to continue work in the area of extraordinary ability; and (iii) the alien's entry will substantially benefit prospectively the United States.

"Extraordinary ability" refers only to those in "that small percentage who have risen to the very top of the field." 8 C.F.R. § 204.5(h)(2). A petition based on extraordinary ability must include evidence of sustained acclaim and the recognition of achievements in the field. 8 C.F.R. § 204.5(h)(3). Such evidence shall include evidence of a one-time achievement (that is, a major, international recognized

award)[1] or evidence that satisfies at least three of the ten criteria 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 regulatory evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record demonstrates sustained national or international acclaim and 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 analysis, first determining whether the documentation satisfies the required number of regulatory criteria and then conducting a final merits determination); *see also Amin v. Mayorkas*, 24 F.4th 383 (5th Cir. 2022) (affirming agency decision denying a petition under *Kazarian* analysis).

The Petitioner previously claimed before SCOPS that she has met seven of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(v), (vii), and (viii). SCOPS found, and we agreed on appeal, that she met only two criteria at 8 C.F.R. § 204.5(h)(3)(iv) (participation as a judge of others' work) and (vii) (display of work in the field at artistic exhibitions or showcases). Over the course of these proceedings, including her appeal and two subsequent motions, she did not address and thus waived three of the seven regulatory criteria she initially claimed. Of the two remaining criteria she continued to contest at 8 C.F.R. § 204.5(h)(3)(iii) (publications about her relating to her work in the field) and (v) (original contributions of major significance in the field), we determined in dismissing her last combined motion that she has met the plain language of 8 C.F.R. § 204.5(h)(3)(iii) based on new motion evidence of published materials about herself and their viewership, thereby satisfying at least three regulatory criteria and necessitating a final merits determination.[2]

However, we dismissed her last motion to reopen because the totality of the evidence did not demonstrate that she has sustained national or international acclaim and she is in that small percentage of individuals who have risen to the very top of the field to be eligible for this highly restrictive visa classification based on extraordinary ability, as required under section 203(b)(1)(A)(i) of the Act and *Kazarian*'s final merits analysis. *See also* 8 C.F.R. § 204.5(h)(2), (3); 6 *USCIS Policy Manual*, F.2(B)(2), https://www.uscis.gov/policy-manual (stating that final merits determination evaluates the entirety of the evidence together to determine whether a person has the requisite high level of expertise and sustained acclaim and is among the small percentage of individuals at the very top of their field). We also dismissed her last motion to reconsider because she did not specify any legal or policy error in our prior decision dismissing her first combined motion, and therefore did not meet the requirements of that motion as set forth in 8 C.F.R. § 103.5(a)(3).

On instant motion to reconsider, the Petitioner generally asserts that "the conclusion" that the evidence does not show sustained national or international acclaim or that she is not among the small percentage at the very top of her field "may not have fully considered the comprehensive framework established by *Kazarian v. USCIS* [...], and further interpreted in *Amin v. Mayorkas*, 24 F.4th 383 (5th Cir. 2022)." But the Petitioner does not explain how we misapplied these two cases, otherwise specify any error, or claim that we incorrectly applied any law or policy in dismissing her last combined motion based on the evidence then before us. Consequently, she has not met the requirements of a motion to reconsider and we will thus dismiss this motion. 8 C.F.R. § 103.5(a)(3); *see also Matter of O-S-G-*,

[1] The Petitioner did not claim, and the record does not otherwise show, a one-time achievement. 8 C.F.R. § 204.5(h)(3).
[2] As she met at least three regulatory criteria at 8 C.F.R. § 204.5(h)(3)(iii), (iv), and (vii), we did not reach whether the evidence satisfied the "original contributions of major significance" criterion she also claimed at 8 C.F.R. § 204.5(h)(3)(v).

24 I&N Dec. 56, 58 (BIA 2006) (stating that a motion to reconsider is not a process by which a party may submit, in essence, the same assertions and arguments and seek reconsideration by generally alleging error in the agency's prior decision).

Turning to the Petitioner's motion to reopen, she submits her own statement; additional support letters from colleagues and her current and former students; four articles from 2012, 2013, 2021, and 2023; a business registration of her dance school [redacted] Texas in March 2025, a week before she filed her previous combined motion; a dance festival registration indicating that she created and registered a dance event [redacted] in July 2025, a week before filing the current motion to reopen; and photographs of herself, colleagues, her former and current students, and pictures of the letter writers in various dance events and competitions they participated in.

As stated, where an alien meets the plain language of at least three threshold regulatory criteria, we then consider the totality of the material provided in a final merits determination under *Kazarian* and assess whether the record shows sustained national or international acclaim and the alien is among the small percentage at the very top of the field of endeavor. *See also* section 203(b)(1)(A)(i) of the Act. The above motion documents do not overcome our prior determination that the Petitioner has not met her burden of establishing sustained national or international acclaim and is among the few individuals at the very top of their field at the time of filing her petition, as required.

In our decision dismissing the prior motion to reopen, we addressed in detail why relevant evidence in the record did not show that she has sustained acclaim and is in that small percentage of individuals who have risen to the very top of the field. We acknowledged that she has been an active salsa dancer, choreographer, artistic director, and instructor since around 2000 when she founded a dance school [redacted] Colombia, with her family. We addressed two awards she received: a 2014 university award, which was sponsored by [redacted] tourism department, and a 2019 award from a local [redacted] government with a moderate cash prize, the consideration of which were limited to dance schools there. The record, however, lacked probative evidence that these awards based on her work through her dance school were of national or international acclaim or otherwise indicative of prestige in her field as a whole. We also addressed another 2019 award she claimed to have received but noted that the name on this award did not match hers, calling into question her assertion that she received it. The Petitioner still has not provided any explanation or evidence that may help resolve this discrepancy. Although we also considered the claimed successes of dancers and dance groups trained at and representing her school at various festivals and competitions, we concluded that the record similarly lacked evidence of their widespread recognition or renown that may indicate sustained national or international acclaim as a result of the Petitioner's specific work for this highly restrictive visa classification limited to those among the very top of the field. Further, we noted that she did not address or dispute our prior determination on appeal that the record lacked objective evidence showing that any of the awards she and her trainees have received were nationally or internationally recognized.

We also considered other documents she submitted below as evidence of sustained high acclaim that she claimed places her among the very top in her field, including experience as a choreographer in salsa events at various venues; participation as a judge in dance competitions; important collaborative roles she played in [redacted] Colombia through her dance school and the [redacted] dance show; and related articles and an interview in which she talked about travelling with her school overseas to perform and give salsa lessons. But we concluded that the record lacked evidence that the venues at which she

displayed her dance and choreography skills were prestigious or won her widespread acclaim; her experience as a judge required any specific distinctions or selective criteria; or the events she judged had any distinguished renown representing the highest levels of competitions in the field. We further considered a six-page training document (titled [redacted] she created, which she claimed "represents a groundbreaking methodology" in the field and has produced elite dancers. However, a copy of this program she submitted lacked specific information about how the training steps were implemented or adopted by others in the field, and the record lacked evidence of their impact beyond her dance studio and trainees and how such program specifically set her apart as a "groundbreaking" pioneer in the field, as she claimed. Although she also submitted several recommendation letters highly praising her skills and successes of her dance school and training program, we determined that they lacked probative detail, and the record lacked corroborating evidence as to the claimed originality and significance of her training methods and other skills that she and the letter writers generally asserted were adopted globally with critical acclaim.

On motion, the Petitioner reiterates her past accomplishments; reemphasizes her training program; and reasserts that she continues to be very active in the United States as a guest artist in reputable dance events and workshops and as a competition judge, since her last admission into this country in 2022. But we have considered these and other similar assertions and related evidence in dismissing her prior motion to reopen, and concluded that the record did not show she has enjoyed sustained national or international acclaim and is among the small percentage at the very top of the field, as required. We also noted that most of her activities following her 2022 admission, including invitation to judge a competition in 2025, did not establish her eligibility at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971) (holding that an alien must establish eligibility at filing and taking additional actions to acquire necessary qualifications after the filing do not overcome initial deficiency); *see also Matter of Izummi,* 22 I&N Dec. 169, 175-76 (Comm'r 1998).

The Petitioner avers that the fact that she recently opened her own dance school and registered a dance event in [redacted] Texas in 2025, as well as her participation as a respected artist at dance events and as a judge of various competitions, show that she continues to expand her distinguished career. We acknowledge this assertion and related evidence of her continued activities. But, again, the additional experiences do not establish her claimed eligibility at the time of filing. Even if we were to consider all her qualifications she acquired after filing her petition in 2022, they do not demonstrate that she has enjoyed *sustained* national or international acclaim and is among the few at the very top of the field who has continued to *maintain* such level of acclaim. Section 203(b)(1)(A)(i) of the Act; *Kazarian*, 596 F.3d at 1119-1120; *see also* 6 *USCIS Policy Manual*, F.2(B)(2) (stating that final merits analysis evaluates the entire evidence to determine whether a person has shown, by a preponderance of the evidence, the required level of expertise and acclaim indicating that the person has maintained such acclaim and is among the very few at the very top of the field).

She also submits many one-page recommendation letters from colleagues and her current and former students, all dated July 2025. These additional support letters generally praise the Petitioner; personally reiterate her influence and past and recent accomplishments; and attest to her activities in the United States as a teacher, guest artist, and a judge. Some of these letters are from the same individuals who had previously provided similar letters in support of her prior motions; and many now also refer to her as a "he" or "him," undermining the accuracy of the translations and thus the evidentiary value of the letters. Further, as we noted in our decision dismissing the prior motion,

which specifically considered similar recommendation letters, the new letters still lack probative detail as to the claimed uniqueness and widespread impact of her teaching methods and whether or how her skills as a dancer, choreographer, and instructor were specifically adopted by others or garnered sustained acclaim in the field as a whole. As we have explained previously, the record lacks verifiable and probative evidence that may independently show the requisite sustained national or international acclaim that she and her letter writers claim places her among the very few elites in the field.

The remaining evidence, including the 2012, 2013, 2021, and 2023 articles and photographs of the Petitioner and letter writers in various events, do not add new, substantive evidentiary value that would warrant reopening, as some of them are duplicates and others appear to provide different descriptions of the same or similar events they participated in, which do not show the kind of renown or prestige only few elite individuals are able to attain in the field, as she claims. The Petitioner also does not clarify which of her assertions and documents specifically constitute "new" evidence for purposes of satisfying the motion requirements at 8 C.F.R. § 103.5(a)(2), rather than continued reiteration of her past and current accomplishments as similarly highlighted when she filed her petition in 2022 and two subsequent motions to reopen in 2024 and 2025. Many of the documents she now submits in support of her motion to reopen also, as stated, do not demonstrate her eligibility at the time of filing, and the overall evidence do not otherwise now establish her eligibility.

The Petitioner's assertions and documents on this third motion to reopen do not overcome the evidentiary deficiencies we specifically addressed in dismissing her prior motion to reopen or otherwise now demonstrate the requite sustained national or international acclaim that only few individuals at the very top of the field may enjoy while still maintaining such comparable level of high acclaim to warrant reopening. 8 C.F.R. § 103.5(a)(2).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider 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.