U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 41176715

Date: FEB. 19, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a composer, 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.

SCOPS denied the petition, concluding that the record did not establish that the Petitioner had either received a major, internationally recognized award or satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal under 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 withdraw SCOPS' decision and remand the matter for entry of a new decision consistent with the following analysis.

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens with 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. A petitioner must establish that these aliens seek to enter the United States to continue work in the area of extraordinary ability, and that their entry into the United States will substantially benefit the United States. The term "extraordinary ability" refers only to those aliens 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 an alien's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence 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. If those standards do not readily apply to the alien's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we assess whether the record shows sustained national or international acclaim and demonstrates that the alien 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).

The Petitioner studied at [redacted] England, and [redacted] Hungary. He has taught piano since 2002, worked as an accompanist since 2006, and as a composer since 2018. From 2012 to 2024, he was head of keyboard and accompanist in residence at the [redacted] a boarding school in [redacted] England. The Petitioner's composing work has included film and television music and collaborations with prominent recording artists. The Petitioner also performs on piano and other keyboard instruments. The Petitioner entered the United States in January 2025 as an O-1B nonimmigrant, under a petition filed by [redacted], a company involved in composing music for film and television.

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). The Petitioner claimed to have satisfied all ten of these criteria, pertaining to (i) lesser nationally or internationally recognized prizes or awards; (ii) membership in associations that require outstanding achievements; (iii) published material about the alien in professional or major media; (iv) participation as a judge of the work of others; (v) original contributions of major significance; (vi) authorship of scholarly articles; (vii) display at artistic exhibitions or showcases; (viii) leading or critical roles for distinguished organizations or establishments; (ix) high remuneration for services; and (x) commercial success in the performing arts.

SCOPS concluded that the Petitioner met only two of the criteria, pertaining to judging and authorship of scholarly articles. On appeal, the Petitioner asserts that he also meets nearly all the other criteria, except for the ninth criterion relating to remuneration, and that he has submitted comparable evidence under 8 C.F.R. § 204.5(h)(4).

In the denial notice, SCOPS concluded that the Petitioner submitted evidence relating to two different fields, specifically musical composition and music education. SCOPS stated: "The petitioner indicated he intended to continue work as a composer in the field of the arts rather than as a music educator in the field of education. As such, the evidence regarding the petitioner's work as a music educator was not considered when evaluating his ability." SCOPS added: "USCIS will only consider his work as a music educator under final merits." But because SCOPS granted only two of the claimed initial criteria, SCOPS did not undertake a final merits determination.

On appeal, the Petitioner argues that he "has claimed one field of expertise and that is Music Composition," and that his educational activities are part of, and compatible with, that field. The record is consistent with this claim, showing, for instance, that the Petitioner has composed several original pieces for his educational books and an app that he co-developed. We therefore conclude that the Petitioner's various activities are sufficiently related that SCOPS should have considered the Petitioner's educational work in the context of the initial evidentiary criteria.

The Petitioner previously submitted interviews with him that appeared in [redacted] and publications of the [redacted] SCOPS had declined to consider these materials because they relate to the Petitioner's educational work. We conclude that these articles are published materials about the Petitioner, relating to his work, in professional publications aimed at music educators. As such, the articles satisfy the requirements of 8 C.F.R. § 204.5(h)(3)(iii).

Because the Petitioner has submitted the required initial evidence to satisfy three of the criteria at 8 C.F.R. § 204.5(h)(3), the next step is to determine whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim; that he is one of the small percentage at the very top of the field of endeavor; and that his achievements have been recognized in the field through extensive documentation. A final merits determination involves analyzing an alien's accomplishments and weighing the totality of the evidence to determine if their successes are sufficient to demonstrate extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20, *and see generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2).

We will remand the matter in order for SCOPS to make a final merits determination. In doing so, SCOPS must bear in mind that the determination involves consideration of the totality of the record, rather than simply re-evaluating the evidence submitted regarding the individual underlying criteria. SCOPS must determine whether the record as a whole shows that the Petitioner has achieved sustained national or international acclaim.

The prior approval of an O-1 petition is a relevant consideration and can be an indicator of eligibility in adjudicating an immigrant petition for a person with extraordinary ability, but it is not determinative. *See*, *generally*, 6 *USCIS Policy Manual* F.2(B)(3), https://www.uscis.gov/policy-manual. If SCOPS' final merits determination results in another denial, then SCOPS should briefly explain why, notwithstanding the previous O-1 nonimmigrant visa petition approval, the Petitioner has not met his burden to establish eligibility for immigrant classification as an alien of extraordinary ability. *Id.*

Because the Petitioner's intended future work pertains to film and television scores rather than educational products, it is appropriate for SCOPS to give more weight to the evidence of acclaim and recognition pertaining to the Petitioner's past film and television work relative to his educational endeavors.

The determining factor is the Petitioner's own acclaim and recognition, rather than the reputations of his employers, associates, projects, and organizations to which he belongs.

We will remand the matter to SCOPS for a final merits determination.

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