U.S. Citizenship and Immigration Services

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

In Re: 40766145

Date: FEB. 26, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks classification as an individual of extraordinary ability in the arts. *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 aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id.*

SCOPS denied the petition, concluding that the Petitioner did not establish either that he received a major, internationally recognized award, or that he satisfied at least three of the 10 initial evidentiary criteria. 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 sustained acclaim and the recognition of their 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 they must provide sufficient qualifying documentation that meets at least three of the 10 categories 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).

## II. ANALYSIS

### A. The Petitioner's Area of Extraordinary Ability

In Part 6 of the petition, the Petitioner listed the job title of his proposed employment as director of [redacted]. In response to SCOPS's request for evidence, the Petitioner, who is currently the director of [redacted] at [redacted] in the United States, stated that he intends to "expand [his] contributions to [redacted] education and cultural development in the United States" through a variety of initiatives including:

- opening a U.S. branch of [redacted]
- hosting national workshops
- expanding [redacted] U.S. operations
- collaborating with local schools and youth organizations
- judging and organizing competitions
- institutionalizing street dance education in the United States
- fostering cultural exchange; and
- creating educational media content.

The Petitioner does not indicate that he intends to compete as a street dancer. The statute and regulations require a petitioner's national or international acclaim to be sustained and that he or she seeks to continue work in the area of expertise in the United States. *See* sections 203(b)(1)(A)(i) and (ii) of the Act, 8 U.S.C. §§ 1153(b)(1)(A)(i) and (ii), and 8 C.F.R. §§ 204.5(h)(3) and (5). While a competitive street dancer and a director of [redacted] share knowledge of the sport, the two rely on very different sets of basic skills and, thus, are not the same area of expertise. This interpretation has been upheld in federal court. In *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002), the court stated:

> It is reasonable to interpret continuing to work in one's "area of extraordinary ability" as working in the same profession in which one has extraordinary ability, not necessarily in any profession in that field. For example, Lee's extraordinary ability as

> a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach.

Other courts have noted a consistent history in this area; *see also Mussarova v. Garland*, 562 F. Supp. 3d 837,844 (C.D. Cal. 2022) (determining that the plaintiff's awards as a water polo player were not awarded as a water polo coach); *Integrity Gymnastics & Pure Power Cheerleading, LLC v. USCIS*, 131 F. Supp. 3d 721, 730 (S.D. Oh. 2015) (concluding that the Administrative Appeals Office's reasoning, relevant statutory and regulatory language, and case law was not arbitrary, capricious, or otherwise not in accordance with the law in finding that an Olympic gold medal gymnast must meet the extraordinary ability classification through her achievements as a coach, her intended area of expertise).

While we acknowledge the possibility of a petitioner's extraordinary claim in more than one field, a petitioner must demonstrate "by clear evidence that the alien is coming to the United States to continue work in the area of expertise." *See* 8 C.F.R. § 204.5(h)(5). In this case, based on the record before us, the Petitioner intends to continue to work in the area of street dance education and cultural development rather than competing as a street dancer. Thus, the Petitioner cannot satisfy the regulation at 8 C.F.R. § 204.5(h)(3) through his achievements as a street dancer.

B. The Claimed Criteria

SCOPS concluded that the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(iv), but not the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(iii), (v)-(vii). On appeal, the Petitioner asserts that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(iii), and (viii).[1] As discussed below, the record does not satisfy at least three of the 10 criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x).

1. Prizes or Awards

The criterion at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor."

SCOPS generally acknowledged that the record contains information regarding prizes and awards, including photographs; however, SCOPS noted that the record does not establish that the Petitioner received the prizes and awards in question. SCOPS also determined that the record does not establish the prizes or awards have the requisite level of recognition. Based on those issues, SCOPS concluded that the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(i).

On appeal, the Petitioner relies on three prizes or awards. Specifically, the Petitioner claims he received [redacted] – Silver Medal," "[redacted]" and "[redacted]" However, for the reasons discussed above, because he received the three claimed prizes or awards for his achievements as a street dancing competitor and not as a street dancing educator and cultural development advocate, we

[1] Because the Petitioner does not assert on appeal that he meets the criteria at 8 C.F.R. §§ 204.5(h)(3)(v)-(vii), (ix)-(x), we consider them waived and we will not address them in this decision. *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)).

will not consider them here. *Mussarova v. Garland*, 562 F. Supp. 3d 837, 844 (C.D. Cal. 2022) (finding petitioner's evidence related to awards as a water polo player rather than awarded for excellence in the field of water polo coaching).

2. Membership in Associations

The criterion at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields."

SCOPS acknowledged that the record contains a certificate of honor from the [redacted] and letters of appointment from the following: the Street Dance Committee of Chinese Dancers Association, the Hip-Hop Dance Art Promotion Committee of Chinese Mass Culture Association, and the Beijing Youth Hip-Hop Dance Association.[2] However, SCOPS noted that the record does not establish that any of the organizations in question require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. Therefore, SCOPS concluded that the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ii). We agree.

On appeal, the Petitioner reasserts that the [redacted] appointed him as a standing director, that a committee of nationally recognized dance experts review and approve applications for membership in the association, and that the association's bylaws require outstanding achievements in the field, judged by recognized experts, thus satisfying the criterion at 8 C.F.R. § 204.5(h)(3)(ii). He does not assert on appeal that he is a member of any other association that satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

The record contains several documents written in a language other than English, accompanied by English translations that indicate the [redacted] appointed the Petitioner to various positions, including the "first director of the [redacted]," the "leader of [redacted]," the "first deputy director of the [redacted]," and the "first batch of [redacted] at various points between 2014 and 2018. Similarly, a document titled [redacted] dated 2018 lists the Petitioner among dozens of "standing directors," although it does not clarify when he was appointed as such.

The record also contains a copy of a document written in English titled "Membership Development Management Rules," which indicates it describes "rules . . . specially formulated in accordance with the 'Constitution of the China Dancers Association' adopted at the 11th National Congress of the China Dancers Association in January 2021." We note that the Chinese Dancers Association membership criteria dated 2021 bears minimal probative value for establishing membership criteria in 2014-2018, the period during which the association appointed the Petitioner to various roles.

[2] The record refers to the Chinese Dancers Association and the China Dancers Association interchangeably, including within the same page of a given document published by the association.

Even to the extent that 2021 membership criteria may be material to the Petitioner's appointments in 2014-2018, the document does not establish that the association requires outstanding achievements of its members. In relevant part, the document indicates, "Applicants who meet any of the following conditions can apply for membership," listing eight criteria including "those who have studied and worked in dance for ten consecutive years and have intermediate or higher professional and technical titles" or "authors who have published theoretical review articles in national dance journals for more than five times." Because the association's membership criteria include "intermediate" dance students or authors of a relatively small number of articles, regardless of any level of achievement, the record does not establish that the Chinese Dancers Association requires outstanding achievements of its members. Additionally, although the rules summarize the application review process, it does not indicate that applications are judged by recognized national or international experts in their disciplines or fields. Rather, it abstractly refers to review by "The Membership Office of the China Dance Association" and "The Party Leadership of the China Dancers Association." Thus, even if the 2021 China Dance Association rules had probative value for the membership requirements in 2014-2018 when it appointed the Petitioner to various positions, the record does not establish that the association requires outstanding achievements of its members and that membership is judged by recognized national or international experts in their disciplines or fields. Based on the foregoing, the record does not establish that the Petitioner is a member of the type of association contemplated by the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

3. Leading or Critical Role

The criterion at 8 C.F.R. § 204.5(h)(3)(viii) requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation."

On appeal, the Petitioner objects to SCOPS' omission of a discussion of this criterion and, instead, its discussion of other criteria under which he did not claim eligibility. He reasserts that he "is the founder and CEO" and that his organization has been "recognized with numerous prestigious industry awards and accolades[, which] demonstrates both the distinguished reputation of the organization . . . and [his] leading and critical role," thus satisfying the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

First, we acknowledge that SCOPS did not address the criterion at 8 C.F.R. § 204.5(h)(3)(viii). But, because SCOPS determined that the record only satisfied one of the five claimed criteria, even if it had addressed the criterion and concluded that the Petitioner satisfied it, he nevertheless would not have satisfied at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(ix), which was the basis for denying the Form I-140, Immigrant Petition for Alien Workers. Accordingly, this claimed error was, at most, harmless. *See generally Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing cases regarding harmless or scrivener's errors).[3]

The record contains limited information regarding the company the Petitioner purportedly founded and oversees as its chief executive officer based in [redacted] China. An employment confirmation letter states that he is the company's founder and chief executive officer, and it summarizes his duties;

[3] Relatedly, the Petitioner objects to SCOPS determining that the Petitioner did not satisfy other criteria for which he did not assert eligibility. However, given that the Petitioner did not—and does not—claim eligibility under criteria that SCOPS determined the record does not satisfy, this claimed error also was, at most, harmless. *See generally Matter of O-R-E-*, 28 I&N Dec. at 336 n.5.

however, the letter does not identify its author and signatory. Rather, it closes with "Sincerely," the name of the company, a date, some markings that appear to be written in a language other than English, and the letters "HR." Without identifying the individual who wrote the employment confirmation letter, that individual's knowledge of the information contained in the letter, and the individual's authority to speak on behalf of the company, the letter bears limited probative value for determining whether the Petitioner actually performs a leading or critical role therein. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual; *see also Matter of Chawathe*, 25 I&N Dec. at 375-76 (providing that petitioners bear the burden of proving claims are more likely than not true).

To the extent that the employment confirmation letter written by an unidentified individual may establish that the Petitioner performs a leading or critical role at that company, the question becomes whether that organization or establishment has a distinguished reputation, as required by the criterion at 8 C.F.R. § 204.5(h)(3)(viii). Factors for determining whether an organization or establishment has a distinguished reputation include, but are not limited to, the relative size, longevity, scale of customer base, relevant media coverage, and funding of an organization or establishment. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The record contains limited information regarding the Petitioner's company's composition and activities. Various documents in the record, including the Petitioner's curriculum vitae and the employment verification letter, claim that the Petitioner founded the company in 2016; however, the record does not corroborate these assertions with documentation of when the company was founded, and by whom. Therefore, the record does not establish the company's actual longevity. The employment verification letter generally describes the company as "dedicated to promoting street dance culture through comprehensive education and training programs, captivating performances, and high-profile commercial events. It provides a creative platform for street dance enthusiasts to grow and excel." However, neither the letter nor the remainder of the record elaborates on any other employee(s) of the company and their job duties. Moreover, the record does not establish the sizes of similar companies, whether in [redacted] China, or elsewhere. Therefore, even if the record established the company's size, it would not—and it does not—establish the relative size of the company as compared to similar companies. Even if the record addressed the number and duties of any other individuals who work for the company, neither the letter nor the remainder of the record clarify how the company is funded, and what the extent of its funding has been in any particular year. Similarly, beyond generally describing the company's activities as promoting culture, conducting performances, and providing education or training, neither the letter nor the remainder of the record elaborate on the scale of the company's customer base or audience, such as the sizes of its performances' audiences or the number of students or trainees at any given time and throughout its alleged 10-year existence.

We acknowledge that the record contains information purportedly regarding awards given to the company and its students or trainees. However, the record does not establish whether—and when—the individuals were students or trainees of the company, nor does the record establish the number of other competitors for the awards in question and the criteria for receiving them. Therefore, even if the record established that the company or its students or trainees received the awards depicted, the record does not establish the significance of having done so, in order to assess how that may inform whether the company has a distinguished reputation.

Based on the foregoing, the record does not establish that the Petitioner performed a leading or critical role for any particular organization or establishment, or that such an organization or establishment has a distinguished reputation; therefore, the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

Based on the foregoing, the record would not satisfy at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x) even if it satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(iii); therefore, we reserve our opinion regarding that criterion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

## III. CONCLUSION

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. 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 Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 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. at 25.

**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.