U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40797806

Date: JAN. 20, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner seeks classification as an alien of extraordinary ability in physics. *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 the Petitioner did not establish he met the initial evidence requirements for the classification by establishing his receipt of a major, internationally recognized award or by meeting three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 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 visas available to immigrants 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; who seek to enter the United States to continue work in the area of extraordinary ability; and whose 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 the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that meets at least three of the ten 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) (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).

Because the Petitioner has not claimed or established his receipt of a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS determined the Petitioner met only two criteria, judging the work of others under 8 C.F.R. § 204.5(h)(3)(iv) and scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi).

On appeal, the Petitioner asserts that he fulfills one additional criterion, original contributions of major significance in the field. The Petitioner contends that SCOPS made several errors in this matter, including errors of fact, law, and policy.

For the criterion of original contributions, the regulations state a petitioner must submit "[e]vidence of [the petitioner's] original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v). A petitioner must first demonstrate making original contributions in the field. In addition, the petitioner must show the original contributions are of major significance to the field. The criterion focuses on whether a petitioner's original work constitutes major, significant contributions to the field. A petitioner may show that his or her contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *Visinscaia v. Beers*, 4 F. Supp. 3d at 134-35. Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

Upon review, we agree with the Petitioner that SCOPS' decision contains sufficient errors to warrant a remand. When considering the evidence for the criterion of original contributions under 8 C.F.R. § 204.5(h)(3)(v), SCOPS' decision uses language relating to the analytical framework for adjudicating national interest waivers in the precedent decision *Matter of Dhanasar,* 26 I&N Dec. 884 (AAO 2016). *See generally* 6 *USCIS Policy Manual, supra*, at F.5(D).

For instance, SCOPS' decision analyzes evidence of the Petitioner's research citation history, stating the record lacks independent evidence to "prove that the [P]etitioner's citation record is indicative of a *record of success* or otherwise demonstrate[s] he is *well positioned to advance his proposed endeavor*." (emphasis added). Similarly, when considering evidence of journal rankings, SCOPS

states, "USCIS looks to information about the individual articles which appeared in those journals to prove that the [P]etitioner's research is influential or considered *a record of success* that demonstrates he is *well positioned to advance his proposed endeavor*." (emphasis added). SCOPS' consideration of the evidence using national interest waiver criteria calls into question whether the evidence meets the requirements for the criterion of original contributions under 8 C.F.R. § 204.5(h)(3)(v) and the requested classification as an individual of extraordinary ability.

In addition, SCOPS' decision analyzes "review articles" summarizing the Petitioner's work and states the "review articles cannot establish that the [P]etitioner is *well positioned to advance his proposed endeavor*." (emphasis added). Again, SCOPS misapplies the use of national interest waiver criteria to the Petitioner's request for classification as an individual of extraordinary ability. Moreover, SCOPS' analysis of "review articles" is not clear because the record does not include review articles.

To meet the criterion for original contributions, the Petitioner submitted letters of support from professionals in the field, independent advisory opinions from researchers who have relied on his work, the Petitioner's research articles, and his research publication citation history. SCOPS' decision quotes from the letters of support but does not explain with any specificity why the letters were not considered for the criterion of original contributions. An officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(i). Although SCOPS briefly mentioned and discussed the letters of support, and concluded that they were insufficient, the decision does not adequately explain why the Petitioner's evidence was deficient to support his claims that he meets the criterion for original contributions and is an individual of extraordinary ability.

On remand, SCOPS is instructed to re-evaluate the evidence submitted in support of the petition to determine whether the Petitioner satisfied the plain language of at least three criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), and to issue a new decision. In doing so, SCOPS should also review the Petitioner's appellate brief and documentation, which further addresses the previously submitted evidence.

As SCOPS did not conclude that the Petitioner met the initial evidence requirements, the decision did not include a final merits determination. If after review SCOPS determines that the Petitioner received a major, internationally recognized award or satisfied at least three criteria at 8 C.F.R. 204.5(h)(3), the new decision should include an analysis of the totality of the record evaluating whether the Petitioner 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.

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