U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40764879

Date: JAN. 20, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a current student enrolled at [redacted], seeks classification as an alien of extraordinary ability in modeling. *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 the Petitioner did not satisfy at least three, as required, of the initial evidentiary criteria. 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 dismiss the appeal.

I. LAW

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 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). *See also Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) (holding that extraordinary ability visas are known as "Einstein" visas, are extremely "coveted," and are "reserved for only the most talented aliens"). 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 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. U.S. Citizenship & Immigr. Servs.*, 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

Because the Petitioner has not claimed or established her receipt of a major, internationally recognized award, she 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 one (judging under 8 C.F.R. § 204.5(h)(3)(iv)) of the four claimed categories of evidence. On appeal, the Petitioner asserts that she fulfills three additional criteria.[1]

A. Translations

At the outset, the regulation at 8 C.F.R. § 1032.(b)(3) requires that "[a]ny document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English."[2] Here, the Petitioner did not submit credible certifications.

At initial filing, in response to the request for evidence (RFE), and on appeal, the Petitioner provided a single blanket translation certification for all of the foreign language documents in the proceeding. None of the blanket translation certifications specify the foreign language documents to which they purportedly pertain. Instead, the certifications indicate for each proceeding: "[a]ll the translation contained in the file of RE: [the Petitioner] EB1A Petition is our product," "[a]ll the translation

[1] Any ground of ineligibility that is not raised on appeal is waived. *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)).

[2] *See also generally* 1 *USCIS Policy Manual* E.6(E)(1), https://www.uscis.gov/policy-manual.

contained in the file of RE: [the Petitioner], EB1A RFE RESPONSE is our product," and "[a]ll the translation contained in the file of RE: [the Petitioner] I-290B is our product," respectively.

Without certifications that identify the foreign language documents, the Petitioner did not demonstrate that each foreign language document was actually translated by the individual/entity who completed the certification. Furthermore, the Petitioner did not establish that each foreign language document was, in fact, fully translated and competently certified as complete and accurate. Accordingly, the translations contain no probative value, and therefore, will not be considered to determine her eligibility.

B. Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires that "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." USCIS determines whether the award is a lesser nationally or internationally recognized prize or award which the person received for excellence in the field of endeavor.[3]

The Petitioner claims eligibility for this criterion based on two awards organized by the China Fashion Association (CFA): 1) 2010 China Fashion Award – [redacted] and 2) 2005 [redacted] Because she did not provide properly certified translations, as discussed above, the Petitioner did not establish that she received the awards, and she did not demonstrate that they qualify as nationally or internationally recognized for excellence in the field of modeling. Moreover, the various screenshots and articles relate to CFA, events, or contests rather than the specific awards for which she claims eligibility – the "2010 China Fashion Award – [redacted] and the "2005 [redacted] Without properly certified translations of the foreign language documentation, including information about her specific awards, the Petitioner did not show eligibility for this criterion.

C. Memberships

The regulation 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."[4] The Petitioner claims eligibility for this criterion based on honorary membership with the Professional Fashion Models Working Committee of CFA. However, for the same reasons discussed above, the Petitioner offered blanket certified translations for the foreign language documents. Without properly certified translations of the foreign language documentation, the Petitioner did not show eligibility for this criterion.

[3] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that USCIS determines whether the award is a lesser nationally or internationally recognized prize or award which the person received for excellence in the field of endeavor).

[4] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (stating that USCIS determines if the association for which the person claims present or past membership requires that members have outstanding achievements in the field as judged by recognized experts in that field).

D. Judging

The regulation at 8 C.F.R. § 204.5(h)(3)(iv) requires "[e]vidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought."[5] Although SCOPS determined the Petitioner fulfilled this criterion, the record reflects the Petitioner claimed eligibility for this criterion based on foreign language documentation without properly certified translations, as previously discussed. Accordingly, we withdraw SCOPS' favorable finding for this criterion.

III. CONCLUSION

The Petitioner did not establish eligibility for any of the categories of evidence discussed above. Although the Petitioner also claims qualification for the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii), we need not reach this ground because the Petitioner cannot fulfill the initial evidentiary requirement of at least three under 8 C.F.R. § 204.5(h)(3).[6] *See Kinuthia v. Biden*, 702 F. Supp. 3d 5, 11 (D. Mass. 2023), *aff'd sub nom. Kinuthia v. Trump*, No. 23-2029, 2025 WL 3491324 (1st Cir. Aug. 12, 2025) (declining to consider a criterion when the plaintiff cannot satisfy at least three). Accordingly, we decline to reach and hereby reserve this issue. *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).

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 she 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 also decline to reach and hereby reserve any final merits determination in this matter. *See Bagamasbad*, 429 U.S. at 25.

Regardless, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (stating that extraordinary ability is such an elite level of accomplishment); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that EB-1 visas are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, the Petitioner has not shown the

[5] *See also generally* 6 *USCIS Policy Manual* F.2(B)(1) (instructing that USCIS determines whether the person has acted as the judge of the work of others in the same or an allied field of specification).

[6] The Petitioner also claims eligibility for the published material based on foreign language documents without properly certified translations.

significance of her work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. *See* Section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that she is among the small percentage at the top of her field. *See* 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above-stated reasons, with each considered as an independent and alternate basis for the decision.

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.