U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40765754

Date: JAN. 22, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an athletic trainer, seeks classification as an individual of extraordinary ability in the sciences. *See* Immigration and Nationality 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

The record establishes that SCOPS sent a request for evidence (RFE) to the Petitioner in March 2025. The record also establishes that the Petitioner timely responded to the RFE in June 2025. However, SCOPS' decision, dated July 18, 2025, claims, "As of this date, the [P]etitioner has not responded [to the RFE]." SCOPS' decision addresses evidence the Petitioner submitted at the time he filed the Form I-140, Immigrant Petition for Alien Workers, without addressing the evidence he submitted in response to SCOPS' RFE. SCOPS' decision concludes that the Petitioner did not establish eligibility.

On appeal, the Petitioner asserts, among other things, that SCOPS "ignored a timely-filed RFE response. . . . Under 8 C.F.R. § 103.2(b)(8)(iv), USCIS needs to consider timely responses. By failing to do so, USCIS committed a procedural error."

The Petitioner incorrectly asserts that 8 C.F.R. § 103.2(b)(8)(iv) requires SCOPS to consider RFE responses. Rather, 8 C.F.R. § 103.2(b)(8)(iv) describes when, and how, SCOPS may issue an RFE, and it provides the maximum response time for RFEs. Instead, 8 C.F.R. § 103.2(b)(11) provides that even partial responses to RFEs "will be considered a request for a decision on the record," which

includes evidence submitted in response to the RFE in question, provided such evidence may establish eligibility. *See, e.g.,* 8 C.F.R. § 103.2(b)(1) (requiring petitioners to establish eligibility at the time of filing a benefit request, not based on a new set of facts that did not exist at the time of filing).

SCOPS' statement that the Petitioner did not respond to the RFE is erroneous. SCOPS' decision, disregarding the Petitioner's RFE response, does not indicate that SCOPS adequately reviewed the totality of evidence in the record at the time of the decision. *See generally* 8 C.F.R. § 103.2(b)(11). Based on the foregoing, we will remand this matter for SCOPS to review the record in its entirety for the entry of a new decision. SCOPS may request any additional evidence considered pertinent to the new determination. As such, we express no opinion regarding the ultimate resolution of this case on remand.

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