U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40795969

Date: JAN. 29, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a teacher, 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.

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 did not meet any of them. On appeal, the Petitioner asserts that she fulfills six categories of evidence.[1]

A. Awards

The regulation 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." The Petitioner claims eligibility for this criterion based on: "[redacted] (2017), [redacted] Award (2020), and [redacted] medals (2003)."

The record contains a photograph of a trophy with '[redacted]' indicated on the top and the Petitioner's name on the bottom. In addition, the record includes a copy of a photograph with two individuals holding an unidentified plaque. The Petitioner did not reference documentation relating to the purported '[redacted] medals." USCIS determines if the person was the recipient of prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Here, the Petitioner did not provide any supporting documentation, such as evidence from the awarding entities, to establish that she received any of these claimed awards. *See Guida v. Miller*, No. 20-CV-01471-LB, 2021 WL 568850, at *8 (N.D. Cal. Feb. 16, 2021) (upholding there was no primary evidence of the awards).

[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)).

Notwithstanding the above, the Petitioner did not demonstrate that any of these awards are nationally or internationally recognized for excellence in the field. 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. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The Petitioner did not offer evidence establishing the field's national or international recognition of the awards. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 182 (D.N.J. 2021) (finding the regulation requires that the petitioner provide evidence of national or international recognition); *see also Visinscaia*, 4 F. Supp. 3d at 136; *Guida*, 2021 WL 568850, at *8-9; *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885, at *8 (E.D.N.Y. Sept. 30, 2011).

Accordingly, the Petitioner did not establish she meets this criterion.

B. 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."[2] The Petitioner claims her "elected leadership role as [redacted] Coordinator" and "membership in the Jamaica Teachers' Association and Jamaica Association of French Teachers required professional credentials and expertise."

While the Petitioner provided an unidentified document with a photograph listing her as "Chief Zone Coordinator" of "Zone 3: [redacted]" the Petitioner did not reference evidence showing her memberships with the Jamaica Teachers' Association and Jamaica Association of French Teachers. Without additional evidence, the Petitioner did not demonstrate her memberships with any of these associations.

Moreover, the petitioner must show that membership in the association requires outstanding achievements in the field for which classification is sought, as judged by recognized national or international experts. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). The record contains a mission statement and other information about the Jamaica Teachers' Association. However, the document does not indicate any membership requirements and whether membership is judged by recognized national or international experts. Moreover, the record does not reflect membership information regarding [redacted] Coordinator and the Jamaica Association of French Teachers. *See Aravamuthan*, 2025 WL 1708126, at *4 (upholding plaintiff did not show that outstanding achievements are required of its members as a minimum requirement for membership); *see also Braga v. Poulos*, No. CV 06-5105 SJO FMOX, 2007 WL 9229758, at *5 (C.D. Cal. July 6, 2007), *aff'd*, 317 F. App'x 680 (9th Cir. 2009) (finding the organization itself must require outstanding achievements as a condition for membership); *Kinuthia v. Rosenberg*, No. CV 17-10255-LTS, 2018 WL 1243955, at *5 (D. Mass. Mar. 8, 2018), *aff'd sub nom.*, *Kinuthia v. Velarde*, No. 18-1244, 2019 WL 11671989 (1st Cir. July 3, 2019), *cert. denied*, 140 S. Ct. 2643, 206 L. Ed. 2d 714 (2020) (upholding petitioner

[2] *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).

did not submit any evidence of an association requiring outstanding achievements of its members); *Kumar v. Dir. of U.S. Citizenship & Immigr. Servs.*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024) (upholding plaintiff's documentation did not reflect recognized national or international experts determine qualifications for membership).

For these reasons, the Petitioner did not demonstrate she fulfills this criterion.

C. Published Materials

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation." The Petitioner claims eligibility for this criterion based on an article published in the *Jamaica Observer*.

The record reflects the Petitioner submitted screenshots from jamaicaobserver.com, rather than an article published in the [redacted], regarding students traveling to Guadeloupe where they participated in a workshop in which the Petitioner is listed as one of the [redacted] students. USCIS determines whether the published material was related to the person and the person's specific work in the field for which classification is sought. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Here, the Petitioner did not establish the screenshots reflect published material about her relating to her work rather than about a workshop. *See Gadhave v. Thompson*, No. 3:21-CV-2938-D, 2023 WL 6931334, at *3-4 (N.D. Tex. Oct. 19, 2023) (upholding published material must be specifically about the applicant and focus on his personal work in the relevant field, not merely relate to the applicant's work, mention his name, or include his photo).

Furthermore, USCIS determines whether the publication qualifies as a professional publication, major trade publication, or major media publication. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). In evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media). *Id.* Here, the Petitioner did not offer evidence showing that jamaicaobserver.com represents a professional or major trade publication or other major medium. *See Kumar*, 2024 WL 1374794, at *5 (upholding the plaintiff did not submit sufficient evidence to establish the material qualified as professional or major trade publications or other major media).

Therefore, the Petitioner did not show she satisfies this criterion.

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."[3] The Petitioner argues that she "served as an adjudicator in Spanish

[3] *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).

language competitions, applying formal rubrics assessing fluency, grammar, and cultural accuracy." SCOPS concluded:

> In support of this criterion, the petitioner submitted what they claim is a judging sheet from an academic competition. We note the document is undated, unsigned, and has inconsistent formatting. Regardless, such documentation alone has no probative value since it does not establish that the petitioner actually performed in a judging capacity in the same or allied field. The petitioner did not provide clear objective evidence that the claimed event occurred, and that the petitioner actually participated in judging of the work of others in the same or an allied field.

We agree with SCOPS' determination. The document does not show that she actually participated as a judge, let alone pertinent information, such as who, what, and when was judged. *See Guida*, 2021 WL 568850, at *8 (upholding "that there were no details about what event the plaintiff was judging, who he was judging, or the basis for [the plaintiff's] knowledge [in her letter] of the Federation's authority regarding the plaintiff's judging history"). The petitioner must show that the person has not only been invited to judge the work of others, but also that the person actually participated in the judging of the work of others in the same or an allied field of specialization. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

For the reasons discussed above, the Petitioner did not establish she meets 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 contributions (8 C.F.R. § 204.5(h)(3)(v)) and roles (8 C.F.R. § 204.5(h)(3)(viii)) criteria, we need not reach these grounds because the Petitioner cannot fulfill the initial evidentiary requirement of at least three under 8 C.F.R. § 204.5(h)(3). *See Kinuthia*, 702 F. Supp. 3d at 11, *aff'd*, 2025 WL 3491324, *cert. denied*, 140 S. Ct. 2643 (declining to consider a criterion when the plaintiff cannot satisfy at least three). Accordingly, we decline to reach and hereby reserve these issues. *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*, 2025 WL 815087, at *1 (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 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.