U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 40286680

Date: JAN. 29, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a professional underwater rugby player, requests classification under the employment-based, first preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner met two of ten initial evidentiary requirements – one less than needed for a final merits determination.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that he met a third evidentiary requirement by submitting evidence of published material about himself and his work in his field. We will therefore withdraw SCOPS' decision and remand the matter for a final merits determination and entry of a new decision consistent with the following analysis.

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). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of his or her 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 he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to the individual's occupation.

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).

II. ANALYSIS

A. Evidentiary Requirements

The record shows that the Petitioner is an underwater rugby athlete who has competed on the [redacted] underwater rugby team. Because the Petitioner has not indicated or shown that he received a major, internationally reorganized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claims to have satisfied seven of these criteria, summarized below:

- Receipt of lesser nationally or internationally recognized prizes or awards;
- Membership in associations in the field requiring outstanding achievements of their members;
- Published material about the person in professional or major trade publications or other major media;
- Participation as a judge of others work in the field;
- Original contributions of major significance in the field;
- Performance in a leading or critical role for distinguished organizations or establishments; and
- Commanding a high salary or significantly high remuneration relative to others in the field.

8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (iv), (v), (viii), (ix).

SCOPS concluded that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(i) and (ii). Concerning the criterion at (ii), SCOPS' decision incorrectly states that the Petitioner was an Olympics team

member. The record, however, shows that the Petitioner was a member of the [redacted] which competed in the Underwater Rugby World Championships. While SCOPS incorrectly refenced the name of the team, SCOPS correctly references documentary evidence considered for this criterion, namely the [redacted] and his membership certificate. The record establishes that the Petitioner satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(i) and (ii).

On appeal, the Petitioner asserts that he meets all seven of the claimed criteria. For the reasons discussed below, we agree that the Petitioner has met the plain language definition of the requirement concerning published material about the individual seeking to demonstrate extraordinary ability.

To meet this evidentiary requirement, a petitioner must submit "[p]ublished material about the[mself] in professional or major trade publications or other major media, relating to the[ir] work in the field for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iii). "Such evidence shall include the title, date, and author of the material, and any necessary translation." *Id.*

When adjudicating this criterion, USCIS first determines whether published material relates to a petitioner and their specific work in the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. USCIS then considers whether a publication qualifies as a professional publication, major trade publication, or major media publication. *Id.* Relevant factors include, for professional and major trade publications, their intended audiences and, for major trade publications and other major media, their relative circulations, readerships, or viewership. *Id.*

The Petitioner submitted copies of several published articles that reference his water rugby team and list him as a player on his team. One such article in a major online publication in Turkey features the Petitioner in the headline and discusses the Petitioner's role as the top scorer for his team in an international tournament. The article, which depicts an individual photo of the Petitioner, credits his performance for earning the team a ranking of third place in the world and includes quotes from an interview with the Petitioner. As the Petitioner submitted published material in major media about himself and his work in his field, he has satisfied the plain language evidentiary requirements under 8 C.F.R. § 204.5(h)(3)(iii). We will therefore withdraw SCOPS' finding to the contrary.

B. Final Merits Determination

The Petitioner has met the requisite minimum number of evidentiary requirements. *See* 8 C.F.R. § 204.5(h)(3). We therefore need not consider his arguments regarding the remaining claimed criteria. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

USCIS must now conduct a final merits determination. SCOPS did not make such a determination and, rather than issue one in the first instance, we will remand the matter.

On remand, SCOPS must determine whether the Petitioner has sustained national or international acclaim and recognition of his achievements sufficient to establish him as one of that small percentage who has risen to his field's very top. *See generally* 6 *USCIS Policy Manual* F.2(B)(2). The Petitioner seeks a highly restrictive visa classification intended for individuals already at the top of their

respective fields. *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2002) (stating that extraordinary ability is such an elite level of accomplishment); *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"); *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, SCOPS should determine whether the Petitioner has shown that the significance of his work is indicative of the required sustained national or international acclaim or is consistent with a career of acclaimed work in the field. 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, SCOPS should consider whether the record demonstrates that he is among the envisioned small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

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