U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36284058

Date: JULY 1, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a businessman, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A).

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. 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 dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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, petitioners can demonstrate international recognition of their accomplishments in the field through a one-time achievement (that is, a major, internationally recognized award). If petitioners do not submit this evidence, then they 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows petitioners to submit comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to their 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

The Petitioner, who holds a bachelor's degree in business administration and a master's degree in international development, has over twenty years of experience in business, having held positions in the private sector and with non-governmental organizations in Kyrgyzstan and the United States.

A. Evidentiary Criteria

Because the Petitioner has not shown that he received a major, internationally recognized 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 claimed he met seven of these criteria relating to lesser nationally or internationally recognized prizes or awards, membership in associations, published material about the Petitioner, participation as a judge of the work of others, original contributions of major significance, leading or critical role for distinguished organizations, and high salary.

SCOPS determined the Petitioner met the criteria for judging and performing in a leading or critical role for distinguished organizations at 8 C.F.R. § 204.5(h)(iv) and (viii). We agree. On appeal, the Petitioner asserts SCOPS erred in assessing the relevant evidence of the remaining criteria he claims to meet.

Nationally or internationally recognized prizes or awards

This criterion requires documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. §204.5(h)(3)(i). SCOPS determined the Petitioner was conferred a title, which did not constitute a prize or award, and was honored by an association, which did not reflect national or international recognition for excellence. On appeal, the Petitioner asserts he meets this criterion through his receipt of the Excellence in Economics badge from the [redacted], the honorary title of [redacted] from the [redacted], and the title of [redacted] of the [redacted] from the [redacted]

The record shows the title of [redacted] of the [redacted] was awarded to the Petitioner by a regional government administration. The Petitioner did not submit evidence that this title was nationally or internationally recognized. Accordingly, this title does not satisfy this criterion.

Regarding the [redacted] badge, the Petitioner submitted photographs of his badge, which resembles a medal, and certificate for this award, which states the [redacted] badge is "awarded for his significant contributions into social and economic development of the [redacted]." The Petitioner submitted the Regulations on Awards of the [redacted] of the [redacted], which state that the [redacted] badge is the highest level of the five awards granted by the Ministry, and is awarded to citizens of the [redacted] who have previously received the [redacted] The Regulations further specify that the [redacted] badge is granted for, among other accomplishments, "[d]emonstrated success in implementing economic regulations based on comprehensive operational analysis and forecasting of the socio-economic development of the [redacted]" "[d]emonstrated excellence in formulating and executing a cohesive state policy encompassing the economy," and "[o]utstanding achievements in advancing foreign economic relations and trade." D-A-[1], [redacted] explains "this prestigious award, the Ministry's highest honor for outstanding achievement, is annually granted to 2-4 individuals who have continuously demonstrated exceptional performance with extensive economic impact." The Petitioner also submitted a media article about his receipt of this award.

The Petitioner submitted a photograph of his badge, which resembles a medal, a copy of his certificate, and the 2013 [redacted] within the [redacted] awarding him the title [redacted] of the Kyrgyz Republic" for his formulation of the [redacted] of the Kyrgyz Republic. The Petitioner also submitted the Regulations on Awards of the State Service for Regulation and Supervision of the Financial Market within the Ministry of Economy and Commerce of the Kyrgyz Republic which state that the title [redacted] is the highest of three awards granted by the Service for, among other accomplishments, "[s]ignificant contribution to the development of the financial market of the Kyrgyz Republic." The Petitioner also submitted a news article about his receipt of this award.

As they were awarded by the Government of the Kyrgyz Republic for his excellent contributions to the economy and financial market of the country, the [redacted] badge and [redacted] title constitute nationally recognized awards for excellence in the Petitioner's field. On appeal, the Petitioner has established that he meets this criterion.

Remaining Criteria

As the Petitioner has established that he meets three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3), we need not assess his eligibility under the remaining criteria he claims to meet. However, we have reviewed the entire record and have considered all the relevant evidence as it relates to the final merits determination.

B. Final Merits Determination

On appeal, the Petitioner has established that he meets at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). As the Petitioner submitted the requisite initial evidence, we will evaluate

[1] We use initials to protect the privacy of the referenced individual.

whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim and that he is among 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. In a final merits determination, we analyze petitioners' accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

The record shows the Petitioner achieved national acclaim in Kyrgyzstan for his work on business legislation, the establishment of the [redacted] and the [redacted] among other significant achievements. From 2011 to 2015, the Petitioner was the [redacted] which the record shows is a prominent and [redacted] in Kyrgyzstan. In that position, he earned a salary over eight times the average salary of chief executives of non-profit associations in Kyrgyzstan. From 2015 to 2019, the Petitioner served as [redacted] and was promoted to Vice President at [redacted] which the record shows is the largest company and largest employer in Kyrgyzstan. While at this company, he earned a salary over 14 times the average salary of chief executives of mining companies in Kyrgyzstan. From 2020 to 2021, the Petitioner was Executive Director of the [redacted] in the Kyrgyz Republic where he worked with businesses and government officials on key business and economic partnerships and initiatives. From 2012 to 2021, the Petitioner was featured in major media and professional publications discussing his work and contributions to the business community and the economy in Kyrgyzstan. In 2013, 2016, and 2017, the Petitioner was a judge of the [redacted] of the Kyrgyz Republic for excellent businesses. The [redacted] in Kyrgyzstan awarded the Petitioner the title of [redacted] in 2018. Two government ministries in Kyrgyzstan also recognized the Petitioner's outstanding achievements with their highest awards in 2013 and 2016. When considered in the aggregate, the evidence demonstrates the Petitioner earned national acclaim in business in Kyrgyzstan from 2012 to 2021.

However, eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). The record does not establish that the Petitioner sustained his acclaim after he moved to the United States in 2021 and until this petition was filed in 2024. The Petitioner submitted evidence that he is the President of the [redacted] owns a company and works with other business organizations. Although he has continued to work in his field, the record does not demonstrate that the Petitioner has received national or international recognition for his business achievements from 2021 until 2024. The Petitioner submitted evidence that he was included in the 2024 edition of [redacted] and an article from the [redacted] a professional publication in Kyrgyzstan, which discusses his inclusion in this publication and his prior career accomplishments. The record does not indicate that the selection criteria and judging process for [redacted] are reflective of a publication featuring the small percentage of individuals at the very top of their fields. The record also does not establish that the Petitioner's achievements between 2021 and 2024 have been recognized in his field through extensive documentation.

When considered in the aggregate, the evidence establishes that the Petitioner earned national acclaim as a businessman in Kyrgyzstan from 2012 to 2021. The evidence does not demonstrate, however,

that the Petitioner achieved sustained national or international acclaim from 2021 until this petition was filed in 2024. Extraordinary ability classification is an "extremely restrictive" route for foreign nationals at the top of their professions to obtain permanent residence in the United States. *Kazarian*, 596 F.3d at 1117-22; *Amin v. Mayorkas*, 24 F.4th 383, 386-87 (5th Cir. 2022). Although we do not discount the Petitioner's many significant achievements, the record does not establish that he is among the small percentage at the very top of his field.

III. CONCLUSION

Although the Petitioner meets at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3), he has not established that he achieved sustained national or international acclaim in business and is among that small percentage who have risen to the very top of his field. Consequently, the Petitioner is ineligible for classification as an alien of extraordinary ability under section 203(b)(1)(A) of the Act.

ORDER: The appeal is dismissed.