U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37882246

Date: JUL. 2, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an exercise trainer and group fitness instructor, 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 establish she met the initial evidence requirement for this classification through evidence of either a one-time achievement or because she meets three of the alternative evidentiary criteria under 8 C.F.R. § 204.5(h)(3). 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 visas available to immigrant 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 international 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).

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 intends to work as an exercise trainer and group fitness trainer in the United States. She has previously participated in and served as a coach for rhythmic gymnastics, garnering awards for her efforts.

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claimed before SCOPS that she met six of the regulatory criteria and SCOPS determined she satisfied one of the criteria. On appeal, the Petitioner continues to maintain she meets the six evidentiary criteria claimed previously. After reviewing all the evidence of record, we conclude she has not satisfied at least three of the regulatory criteria as required and therefore does not qualify as an alien of extraordinary ability.

A. Evidentiary Criteria

> *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).

To establish this criterion has been met, a petitioner must demonstrate: 1) they are the recipient of the prizes or the awards, 2) those accolades are nationally or internationally recognized; and 3) each prize or award is one for excellence in the field of endeavor. *Id.*

The Petitioner submitted a picture of medals and trophies and a caption indicating they were won during the years the Petitioner coached the '[redacted] in Championships and Shows." SCOPS determined the Petitioner did not meet the requirements of this criterion as the Petitioner did not establish the pictured medals and trophies are nationally or

internationally recognized.[1] National and international recognition results from the awareness of the accolade in the eyes of the field nationally or internationally. This recognition should be evident through specific means, for example but not limited to, national or international-level media coverage. The record also contains several local newspaper articles that describe the Petitioner's or her team's placings in rhythmic gymnastics competitions. However, as discussed below, the record lacks circulations statistics for these publications, which might demonstrate national recognition for these awards. Overall, the Petitioner does not affirmatively assert, and the record does not support, that the pictured medals and trophies are nationally or internationally recognized. Here, we concur with SCOPS that the evidence does not establish the Petitioner meets this criterion.

> *Documentation 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.* 8 C.F.R. § 204.5(h)(3)(ii)

To satisfy this criterion, a petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought. *Id.* The Petitioner bases her claim to this criterion upon her membership in the [redacted] The Petitioner submitted a statement from [redacted] highlighting the value of the organization, its promotion of physical activity, and its intent to advance the knowledge and practice of this field.

SCOPS found that though the evidence establishes that the Petitioner's membership in [redacted] satisfies the requirement of membership in an association in the field for which classification is sought, the Petitioner did not meet the additional requirements of this criterion. Specifically, SCOPS determined the Petitioner did not demonstrate [redacted] requires outstanding achievement of its members or that these achievements were judged by recognized national or international experts in the field. The Petitioner does not address this determination by SCOPS on appeal or otherwise show how her evidence satisfies these remaining requirements for this criterion. We concur with SCOPS that the evidence does not establish the Petitioner meets this criterion.

> *Published 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.* 8 C.F.R. § 204.5(h)(3)(iii).

To fulfill this criterion, a petitioner must demonstrate that material relating to their work in the field was published in a professional or major trade publication, or other major media. *Id.* The record contains articles about rhythmic gymnastics competition placements for the Petitioner, both as a former participant and as a recent coach. SCOPS determined these articles are insufficient to meet this criterion, as the record does not show they were published in major trade publications or other

[1] It is noted SCOPS also indicates the record does not demonstrate the Petitioner is still competing at these levels and that the Petitioner did not establish she met the criterion for original contribution of major significance to the field. However, these factors are not pertinent to this criterion as they relate to the final merits determination and an independent criterion under this section, respectively.

major media. SCOPS also found these articles did not discuss the Petitioner's work in the field as an exercise trainer or fitness instructor.

On appeal, the Petitioner acknowledges these articles were published in [redacted] which "may not be major international trade publications," but are "credible, well-established regional outlets that play a significant role in the local media landscape." The Petitioner claims the accomplishments reflected therein are directly attributable to her expertise, methods, and influence as a coach and instructor. However, the Petitioner does not submit relevant circulation and distribution evidence or otherwise assert that these local publications constitute major media in Brazil. As such, we concur with SCOPS the evidence does not establish the Petitioner meets this criterion.

> *Evidence 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 specialization for which classification is sought.* 8 C.F.R § 204.5(h)(3)(iv).

This criterion requires an individual to establish they have participated as a judge of the work of others in their field or an allied field of specialization. *Id. See generally 6 USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual. SCOPS determined the Petitioner's claim that she served as a referee for rhythmic gymnastics events, including the [redacted] from 2017-2019 and [redacted] was insufficient to meet this criterion.

On appeal, the Petitioner contends serving as a referee for rhythmic gymnastics events required her to both assess and evaluate the performance of athletes and ensure fairness and consistency, which demonstrates her expertise, and the confidence placed in her judgment. However, aside from the Petitioner's assertions, the record does not demonstrate her participation as referee involved the evaluation and judging of work or skills of competitors, as opposed to enforcing the competition's rules. *See Victorov v. Barr*, 2020 WL 3213788, at *8 (C.D.C.A. Apr. 9, 2020) (finding a rational connection between the regulation's phrase "judge of the work of others" and our distinction between that and rule enforcement). Accordingly, without further documentation, the Petitioner has not demonstrated her position as referee is sufficient to meet this criterion.

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

To satisfy this criterion, a petitioner must establish not only that they have made original contributions, but that they have been of major significance in the field. *Id.* SCOPS determined the Petitioner met this criterion, as she submitted evidence of her weight loss and physical conditioning program.

However, SCOPS provided no analysis to support its determination, and our review does not indicate that the Petitioner satisfies this criterion. The record does not detail how Petitioner's weight loss and physical conditioning program is an original contribution, nor does it sufficiently address its impact or influence on the field. The Petitioner generally asserts she created "her own method in the area of physical exercise and eating behavior," and letters of recommendation indicate "[h]er approach does not merely focus on weight loss but emphasizes preserving muscle mass, improving overall physical health, and instilling lasting behavioral changes," and "an innovative, individual-focused assessment technique." However, the Petitioner and the authors of the pertinent letters of recommendation do not

detail how her weight loss and physical conditioning program differs from others and constitutes an original contribution to the field. Similarly, the Petitioner and a letter of recommendation assert her program "has become a reference in Brazil, garnering subscribers worldwide, including in Australia and Europe," but the record does not contain supporting documentation for this claim or, further, demonstrate how fulfillment of this claim equates to a contribution of major significance in the field. As the record is insufficient to establish the Petitioner's weight loss and physical conditioning program is an original contribution that has been of major significance to the field of exercise and fitness training, we withdraw SCOPS finding and conclude she does not meet this criterion.

B. We Reserve the Petitioner's Remaining Eligibility Claim

While the Petitioner argues and submits evidence for one additional criterion on appeal relating to her performance in a leading or critical role at 8 C.F.R. 204.5(h)(3)(viii), it is unnecessary that we make a decision on this additional criterion because she has not satisfied five of the six regulatory criteria she claims to satisfy. As the Petitioner therefore cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. 204.5(h)(3), we reserve the remaining issue. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that "courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner did not establish that she can fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). Accordingly, it is unnecessary that we provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119.20. Nevertheless, we advise we have reviewed the record in the aggregate and concluded it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Price*, 20 I&N Dec. at 954. Here, the Petitioner has not shown the significance of her work is indicative of the required sustained national or international acclaim that is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and she is one of the small percentage who has risen to the very top of her field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). Although the Petitioner has experience in exercise and fitness training, the record does not contain sufficient evidence establishing she is among the upper echelon in her field.

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.