U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38390592

Date: JUL. 10, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a model and beauty pageant/fashion choreographer, 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 that 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 continue her work as a beauty pageant/fashion choreographer and model in the United States. She indicates she has received offers to work as a brand model and beauty pageant choreographer from [redacted] and [redacted].

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 four of the regulatory criteria and SCOPS determined she satisfied one of the criteria. On appeal, the Petitioner continues to maintain she meets the four 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

> *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 provided sufficient documentation to establish she has met this criterion. The record contains letters and certificates of verification indicating the Petitioner served as a judge at various beauty pageants, talent searches, and modelling events. As such, we concur with SCOPS that the Petitioner has met this criterion.

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.* SCOPS acknowledged evidence demonstrating the Petitioner was recognized as [redacted] 2019 and conferred [redacted] 2018 by the [redacted] However, SCOPS found the record did not provide details for these awards such as the criteria applied, the scope of candidates considered, and whether the received honors are recognized outside the awarding institutions.

In response to SCOPS' request for evidence, the Petitioner asserted [redacted] is an international beauty pageant as its participants come "from all over the world." On appeal, the Petitioner also asserts SCOPS did not "give sufficient credence to the letter from the award-giving body itself along with other relevant evidence." A previously submitted article indicates the Petitioner competed with 31 other individuals at [redacted] in [redacted] for [redacted] 2019. The article reports the Petitioner came in first for "best national costumer," and as first runner-up in the "talent award category." Similarly, a letter from the founder of [redacted]" indicates the Petitioner's win was based upon her "talent, stage presentation, speaking skills, [and] answers to [the] top 12 and top 5 final questions." After considering the submitted evidence, the Petitioner has not demonstrated being selected as [redacted] 2019 is a prize or award for excellence in her field of endeavor. The competition criteria listed by its founder does not include modeling or pageant/fashion choreography, the Petitioner's claimed fields of endeavor. In addition, though [redacted] draws from international competitors, we still consider the "national or international significance of the awards or prizes in the field." *See generally 6 USCIS Policy Manual*, supra, at F.2(B)(1). Here, the record contains local coverage of the Petitioner's 2019 win, but the Petitioner has not demonstrated this accolade is national or internationally recognized. *See Krasniqi v. Dibbins*, 588 F. Supp. 3d 168, 183 (D.N.J. 2021) (USCIS must focus on the recognition of the award, not its issuer); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 136 (D.D.C. 2013) ("Without evidence of how a larger audience viewed Plaintiff's awards, there was no way for the agency to evaluate whether those awards were recognized widely enough to satisfy this criterion."). As such, the Petitioner has not met 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 discipline 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 relevant evidence includes the Petitioner's life member card and a letter of appointment to an advisor post with this organization.

SCOPS determined the Petitioner did not meet this criterion as the record did not demonstrate the [redacted] requires outstanding achievements of their members or that the

individuals who review prospective members' application are recognized as national or international experts in their disciplines or fields. On appeal, the Petitioner reasserts that she is a lifetime member of the [redacted] but does not address SCOPS' findings, the additional requirements for this criterion, or otherwise demonstrate how her evidence satisfies the remaining requirements. We concur with SCOPS that the evidence does not establish the Petitioner meets 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 published material about her work in the field in professional or major trade publications or other major media at 8 C.F.R. § 204.5(h)(3)(iii), it is unnecessary that we make a decision on this additional ground because she has not satisfied two of the four regulatory criteria she claims to satisfy. As the Petitioner 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) (per curiam) (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

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. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that they are 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*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25 (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision). [1]

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 otherwise inadmissible or deportable, may be subject to the

[1] We note the Petitioner asserted SCOPS erred in not providing a final merits determination in its denial decision. But, as SCOPS also determined the Petitioner did not fulfill the initial evidentiary requirement of three criteria, it was similarly unnecessary to provide a final merits determination.

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.