U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37764032

Date: JUL. 10, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a taekwondo athlete and 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 that the record did not establish that the Petitioner met the initial evidence requirement for this classification through evidence of either a major, internationally recognized award or that he meets at least three of the 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

To establish eligibility as an individual of extraordinary ability, a petitioner (or anyone on the petitioner's behalf) must establish that they:

- Have extraordinary ability in the sciences, arts, education, business, or athletics;
- Seek to enter the United States to continue work in their area of extraordinary ability; and that
- Their entry into the United States will prospectively substantially benefit the United States.

Extraordinary ability must be demonstrated by evidence of sustained national or international acclaim as well as extensive documentation that their achievements have been recognized in the field. Section 203(b)(1) of the Act.

The implementing regulation further states that 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." A

petitioner can demonstrate that they meet the initial evidence requirements for this immigrant visa classification through evidence of a one-time achievement (that is, a major, internationally recognized award). If such evidence is unavailable, then they must alternatively provide evidence that meets at least three of the ten listed criteria, which call for evidence about lesser awards they may have received, published material about them in qualifying media, and their authorship of scholarly articles, among other types of evidence. 8 C.F.R. §§ 204.5(h)(2),(3).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination, assessing whether the record shows that the individual possesses the acclaim and recognition required for this highly exclusive immigrant visa classification. *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 is a taekwondo athlete, referee, and instructor who has received several medals as a competitor in tournaments since 2002. He intends to continue working as a competitor and instructor in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established 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). SCOPS concluded that the Petitioner met one of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(iv), relating to his participation as a judge of the work of others in his field. We agree with the Director's determination regarding this criterion. On appeal, the Petitioner asserts that he also meets the evidentiary criteria relating to lesser nationally and internationally recognized awards, membership in associations requiring outstanding achievement, published material about him and his work in the field, and performing in a leading or critical role for organizations or establishments that have a distinguished reputation.[1] After reviewing all of the evidence in the record, we conclude that he does not meet at least three of the 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)

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. Here, the

[1] The Petitioner also claimed eligibility relating to artistic exhibition and commercial success with the underlying petition; however, he does not challenge SCOPS' conclusion that he did not meet those evidentiary criteria, and as such, he has waived them on appeal.

Petitioner submitted certificates, photographs of himself receiving medals at competitions, and letters from the [redacted] and other organizations which demonstrate that he received several gold, silver, and bronze medals as a taekwondo athlete.

SCOPS concluded in their decision that the record lacked sufficient evidence to substantiate the number of competitors, criteria for determining medalists, prior winners, or details regarding the reputation or significance of the competitions in which he received his medals. SCOPS further noted that a number of his medals were for limited categories, such as "Under 40" or '[redacted]' and, although some letters listed the total number of competitors, they did not include information regarding the number of competitors in the specific categories where the Petitioner received medals.

The letters included with his Petition and response to the SCOPS request for evidence (RFE) describe some of the taekwondo events at which the Petitioner competed. For example, a letter from K-W-M-G-[2] of the [redacted] stated that the Petitioner participated in the 22nd [redacted] Championship in 2018, and that the championship "saw participation from numerous countries and cities across Asia," and that "[d]espite fierce competition [the Petitioner] displayed exceptional skill and determination, securing the Gold Medal in the [redacted] weight category." As noted by SCOPS, this letter does not include a number of participants involved in the category, or even the competition as a whole. Another letter from P-S-K- of the [redacted] noted the Petitioners participation in the 1st [redacted] Championship, held in 2022. The letter stated that the "championship witnessed approximately 1,000 athletes from different regions and teams, including 7 State Teams, the [redacted], the [redacted], and the [redacted]," and states that the Petitioner "secured the Silver Medal in the 30 years and above male individual Poomsae category."

Although these figures show that those tournaments did not limit the competitors in number or nationality to the extent that the excellence of the competitors was reduced, the fact that competitors from different countries competed at the tournaments does not establish that the awards granted were internationally recognized. The record does not include evidence showing the prestige or importance of these and other tournaments in which the Petitioner medaled within the field of taekwondo, particularly within the framework of top-level international competition, or that the awards granted received attention or recognition within the field at the national or international level. We further note that the Petitioner does not differentiate in his brief between the recognition afforded to awards he received at locally organized tournaments versus those from tournaments organized by or between national associations.

On appeal, the Petitioner states that his gold medal mentioned above, received as a result of his participation in the 22nd [redacted] Championship in 2018, was not based solely on age, but does not acknowledge that the medal was still the result of a specific, limiting category, and does not provide substantiating information regarding the number of competitors in the category, or information such as past winners, or the criteria for determining a winner. The Petitioner further notes that the associations, such as the [redacted], are directly affiliated with [redacted] and [redacted] "which are primary authorities in taekwondo internationally and nationally." However, as noted above, the record does not include evidence

[2] We use initials to protect the identity of individuals.

showing the prestige or importance of these and other tournaments in which the Petitioner medaled within the field of taekwondo, particularly within the framework of top-level international competition, or that the awards granted received attention or recognition within the field at the national or international level, aside from general reporting of results in Nepal news outlets.

For all of the reasons discussed above, we conclude that the Petitioner has not demonstrated that he 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 meet this criterion, a petitioner must establish that they are a member in an association, that the association is in their field of endeavor, that it requires outstanding achievements of its members, and that the requirement for outstanding achievements is judged by recognized national or international experts in their fields.

SCOPS noted in their decision that the record includes documentation of the Petitioner's involvement with the [redacted], including a document which states the Petitioner was retained as a Professional Taekwondo Master "Instructor/Judge/Athlete," a "Certificate for Nominated Member," background information and the Constitution for the [redacted] a [redacted] Identity Card, and a letter from the [redacted] The SCOPS decision noted that the Constitution stated that membership in the [redacted] gave descriptions of three tiers of membership but does not require outstanding achievement of its members, nor does membership require outstanding achievements judged by recognized national or international experts in their disciplines or fields. SCOPS further concluded that the letter from the [redacted] detailed the Petitioner's awards and prizes he had won since 2018, and that the letter did not explain that his membership to the [redacted] was granted based upon his outstanding achievements, as required.

In his appeal brief, the Petitioner disagreed with SCOPS and stated that this "is literally the [redacted]," and contends that the SCOPS characterization of the [redacted] Constitution was incorrect. The Petitioner states that the [redacted] Constitution requires members to be "nominated by a working committee," "recommended by Central Associations or the Central Working Committee," and "a maximum number of three athletes out of medal received athletes from officially recognized tournaments of international level representing the country." The Petitioner again asserts that the [redacted] is affiliated with [redacted] and others." Although the Petitioner is correct that SCOPS may have mischaracterized a portion of the [redacted] Constitution, we note that the Petitioner's certificate of membership does not indicate under which provision of the [redacted] Constitution he was granted membership. As noted by SCOPS, the [redacted] Constitution includes "Life membership," "honorary membership," and "ordinary membership" in the [redacted]. Although the section for "ordinary membership" does include a "maximum number of 3 athletes out of medal received athletes from the officially recognized tournaments of International level by representing the country," as stated by the Petitioner on appeal, it also includes other groups such as "society's intellectuals, professionals, donors, farmers, well-wishers and supporters who have contributed for the

development of Taekwondo." As such, the record does not sufficiently document his level of membership in the [redacted].

Per the above, the Petitioner has not established that any of the associations for which he provided evidence of membership require outstanding achievements for his level of membership. He has therefore not established that he 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. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii)

To meet this criterion, a petitioner must submit evidence of published material that is about them and relates to their work in their field of endeavor. The material must include the title, date, and author information, and must be published in a professional or major trade publication or other major medium. Also, in compliance with the regulation at 8 C.F.R. § 103.2(b)(3), materials in a foreign language must be accompanied by a certified English translation.

The Petitioner submitted several articles from newspapers and websites based in Nepal, some of which are about him and his career in taekwondo and others which did not mention him or only reported the results of competitions. The SCOPS decision concluded that the submitted evidence did not meet several elements of this criterion. Specifically, they noted the articles submitted only demonstrated "that he has been awarded various medals and prizes as a participant in taekwondo competitions and do not discuss [his] career as a taekwondo artist." SCOPS also stated that the articles only briefly mention the Petitioner and that most articles did not include authors, and therefore did not meet the requirements of this criterion. Further, the SCOPS decision noted that they could not determine if the articles were published in professional or major trade publications or other major media, as the evidence provided by the Petitioner regarding the publications did not include information such as comparable circulation statistics for the media where the articles were published.

On appeal, the Petitioner notes that one of the articles submitted, titled [redacted] was published in [redacted] and discusses his "career path in Taekwondo – from his humble beginnings to winning championships as a [redacted]" and also features a large photograph of the Petitioner with the article. In our de novo review, we conclude that this article is sufficiently about the Petitioner, relates to his work in the field of endeavor, and also includes an author. However, although the Petitioner contends on appeal that [redacted] "is major Nepalese media" and contends that they submitted such corroborating evidence previously in the record, we disagree. The evidence provided by the Petitioner to demonstrate this claim includes a list of the "Best 10 Newspapers in Nepal" which does not include any criteria used in creating the ranking, or circulation figures to establish that [redacted] is major media. Although the Petitioner provided a letter from A-B-, the Editor-in-Chief of the [redacted] the record lacks independent, objective evidence to conclude that the Petitioner has met this criterion.

III. CONCLUSION

The Petitioner did not demonstrate that he satisfies the criteria relating to awards, memberships, and published material. Although the Petitioner claims eligibility for an additional criterion on appeal, relating to performing in a leading or critical role for organizations or establishments that have a distinguished reputation at 8 C.F.R. § 204.5(h)(3)(viii), we need not reach this additional ground. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve this issue.[3] Accordingly, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a conclusion 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. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it 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 he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

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 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.

[3] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *see also Matter of L-A-C-*, 26 I&N Dec. 516, n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).