U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42093326

Date: JUN. 4, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a dance coach, 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 had satisfied at least three of the initial evidentiary criteria for this classification, 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

Immigrant visas are 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. Section 203(b)(1)(A) of the Act. These individuals must seek to enter the United States to continue work in the area of extraordinary ability and show that their entry will substantially benefit the United States. *Id*. 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 the individual's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Alternatively, the petitioner can submit evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). If those standards do not readily apply to the individual's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

If a petitioner meets these initial evidence requirements, we must 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, 1121 (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 Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* at F.2(B), www.uscis.gov/policy-manual.

The Petitioner is competitive dancer and coach specializing in ballroom dance. Because the Petitioner has not indicated or shown that he has 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 to have satisfied five of these criteria relating to memberships, published materials, judging, original contributions, and performance in leading or critical roles. *See* 8 C.F.R. § 204.5(h)(3)(ii),(iii), (iv), (v), and (viii). In the decision denying the petition, SCOPS determined that he satisfied only one criterion: performing in a leading or critical role for organizations or establishments that have a distinguished reputation. *See* 8 C.F.R. § 204.5(h)(3)(viii).

On appeal, the Petitioner asserts that SCOPS did not fully consider the evidence under each claimed criterion and misapplied the preponderance of the evidence standard. Specifically, he asserts that SCOPS erred in finding that fewer than three criteria were met and in declining to conduct a final merits determination. He explains that, while SCOPS acknowledged in a request for evidence (RFE) that he met two claimed criteria, and further recognized that he met another criterion in its decision to deny the petition, SCOPS' denial did not acknowledge that the Petitioner met a total of three criteria or provide a final merits analysis as required.

Specifically, the Petitioner points to the RFE where SCOPS states that the Petitioner "provided documentation under" the criteria at 8 C.F.R. § 204.5(h)(3)(iii) and (iv), relating to his participation as a judge and published material about him but does not comment further on these two criteria. The RFE then discusses the criteria at 8 C.F.R. § 204.5(h)(3)(ii), (v), and (viii), relating to membership, original contributions of major significance, and performance of leading or critical roles, and suggests evidence to submit to satisfy those criteria. SCOPS' denial of the petition states that the Petitioner met the criterion for his performance in a leading role but did not meet the criteria concerning membership or original contributions.[1] The denial does not acknowledge the criteria relating to his participation as a judge or published material about the Petitioner, incorrectly noting that he did not claim to meet regulatory criteria not discussed in the decision.

Given these discrepancies and the lack of a reasoned explanation of why the Petitioner did or did not satisfy at least three of the claimed criteria, we must withdraw the decision and remand the case so that SCOPS may review the entire record and issue a full decision. The regulation at 8 C.F.R. § 103.3(a)(1)(i) states that when denying a petition, SCOPS shall explain in writing the specific reasons for denial. An officer must fully explain the reasons for denying the petition in order to allow

[1] The Petitioner also notes that SCOPS' denial includes an evaluation of whether he satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(ix), concerning high salary or renumeration, which he did not claim to meet.

the Petitioner a fair opportunity to contest the decision and our opportunity for meaningful appellate review. *Cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that an Immigration Judge must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, SCOPS did not discuss the claimed criteria at 8 C.F.R. § 204.5(h)(3)(iii) and (iv), relating, respectively, to the Petitioner's participation as a judge and to published material about the Petitioner. Consequently, as the decision lacks a sufficient explanation for concluding the Petitioner did not satisfy at least three of the initial evidentiary criteria for this classification, the decision does not provide an opportunity for meaningful appellate review, as is required. *Id.*

Therefore, for the reasons discussed, we will withdraw SCOPS' decision and remand this matter. On remand, SCOPS should review the entire record, including the Petitioner's submission and arguments on appeal, to evaluate eligibility under each claimed criterion at 8 C.F.R. § 204.5(h)(3)(i)–(x) and issue a new, fully reasoned decision. SCOPS may request any additional evidence considered pertinent to the new determination. As such, we express no opinion regarding the ultimate resolution of this case on remand.

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