U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37718277

Date: JUN. 10, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a squash 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.

SCOPS denied the petition, concluding that the Petitioner did not satisfy at least three of the ten initial evidentiary criteria. 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 immigrants 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 sustained acclaim and the 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 categories 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). If an evidentiary standard under 8 C.F.R. § 204.5(h)(3)(i)-(x) does not "readily apply" to a petitioner's occupation, the petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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, 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, 394 (5th Cir. 2022) (upholding USCIS' two-step review process as "consistent with the governing statute and regulation").

II. ANALYSIS

The Petitioner competed as a junior squash player in Egypt and has been working as a squash coach. He is seeking to be classified as an alien of extraordinary ability with the intent of continuing to work in the United States as a squash coach.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, the issue to be addressed on appeal is whether the Petitioner satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, SCOPS determined that although the Petitioner fulfilled two criteria, memberships in associations and leading or critical role, he did not fulfill five claimed evidentiary criteria:

- lesser nationally or internationally recognized awards or prizes,
- published materials about the individual in professional publications relating to work in the field,
- participation as a judge of others' work,
- original contributions of major significance, or
- high salary or other remuneration in relation to others in the field.

On appeal, the Petitioner claims that the evidence demonstrates he meets four of the claimed criteria. He does not dispute SCOPS' conclusion that he did not meet the criterion for high salary or other remuneration. We, therefore, deem this issue to be waived and will not address this criterion further. Issues and prior eligibility claims not raised on appeal are waived. See, e.g., Matter of O-R-E-, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing Matter of R-A-M-, 25 I&N Dec. 657, 658 n.2 (BIA 2012). Claiming certain criteria do not readily apply to his occupation, the Petitioner also submitted

comparable evidence under 8 C.F.R. § 204.5(h)(4) to establish his eligibility. Upon de novo review, the Petitioner has not demonstrated he meets at least three of the initial evidentiary criteria.[1]

1. "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 meet this criterion, the Petitioner must demonstrate that he received prizes or awards, and they are nationally or internationally recognized for excellence in the field of endeavor. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients, as well as any limitations on competitors. See generally 6 USCIS Policy Manual F.2(B)(1), https://www.uscis.gov/policy-manual.

The Petitioner claims eligibility for this criterion based on having been a member of the [redacted], which won first place at the [redacted] in Qatar in 2002. He further claims to have won an individual award, the [redacted] at the same event. While letters from the [redacted] and the [redacted] indicate his receipt of these awards, the record does not show that the awards are nationally or internationally recognized for excellence in the field under the regulation at 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner's awards were from age-limited junior competitions. Age-limited awards are intended for a specific subset of individuals and exclude those already in the field. See Hristov v. Roark, 2011 WL 4711885 (E.D.N.Y. 2011) (upholding AAO finding that an award which was limited to students was not granted for excellence in the field of endeavor); see also Strategati, LLC v Sessions, 2019 WL 2330181 (S.D. CA 2019) (upholding finding that "Woman of the Year" award eliminated men from consideration and thus did not "measure the petitioner's standing or selection from the whole field"). The Petitioner has not shown that he faced competition throughout the field of squash in these competitions, which were restricted by age. Due to these competitions excluding a majority of the field, the Petitioner has not established that these awards are for excellence in the field, as required by the regulation. See 8 C.F.R. § 204.5(h)(3)(i).

Moreover, the awards relate to his achievements as a squash athlete rather than as a squash coach, his intended area of expertise. See Lee v. Ziglar, 237 F. Supp. 2d 914 (N.D. Ill. 2002) (finding that extraordinary ability as a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach); Mussarova v. Garland, 562 F.Supp.3d 837 (C.D. Ca. 2022) (determining that the plaintiff's awards as a water polo player were not awarded as a water polo coach); Integrity Gymnastics & Pure Power Cheerleading, LLC v. USCIS, 131 F.Supp.3d 721 (S.D. Oh. 2015) (concluding that the AAO's reasoning, relevant statutory and regulatory language, and case law was not arbitrary, capricious, or otherwise not in accordance with the law in finding that an Olympic gold medal gymnast must meet the extraordinary ability classification through her achievements as a coach, her intended area of expertise).

[1] While we may not discuss every document submitted, we have reviewed and considered each one.

On appeal, the Petitioner argues that the USCIS Policy Manual recognizes that athletes and coaches rely on different skill sets but permits consideration of the totality of the evidence to establish an overall pattern of sustained acclaim and extraordinary ability to conclude that coaching is within a petitioner's area of expertise. See generally 6 USCIS Policy Manual, supra, at F.2(A)(2). The Petitioner's references to U.S. Policy Manual, however, do not apply to the regulatory criteria, but instead relate to making determinations whether a petitioner intends to continue working in the area of expertise under 8 C.F.R. § 204.5(h)(5). Such determination explicitly occurs after the petitioner establishes sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise. See id. While we may consider the record in its totality during the final merits determination, the Petitioner still has the burden to establish he meets the plain language of the regulatory criteria.

For these reasons, the Petitioner has not demonstrated he meets this criterion.

2. "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).

SCOPS determined that the Petitioner met this criterion without providing an explanation for the determination. Upon de novo review, we conclude that the Petitioner has not met the requirements for this criterion.

To demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership, and that such achievements are judged by recognized experts in the field. Membership requirements based on employment in a certain occupation, minimum education or experience, or payment of dues or fees do not satisfy this criterion as such requirements do not constitute outstanding achievements. See generally 6 USCIS Policy Manual, supra, at F.2(B)(2).

To meet the criterion, the Petitioner submitted evidence that he is a former player for the [redacted] and a former assistant coach for the [redacted] As a former assistant coach of the [redacted], the Petitioner submitted a letter from the team's former head coach attesting to the Petitioner being employed as an assistant coach from 2008 to 2012. The letter generally explains that assistant coaches are chosen after a highly competitive process by evaluating their coaching history, consistency of the coaches' players at prestigious tournaments, coach management under pressure, and technical knowledge. While being employed as an assistant coach for the [redacted] appears to require a certain baseline level of experience, skill, and achievement as a coach, the Petitioner has not met his burden to support finding that being employed as an assistant coach for the [redacted] qualifies as being a member of an association under the regulations, or requires outstanding achievements as judged by national or international experts in the field.

The Petitioner's second claimed membership relates to him being a former player for the [redacted] Two letters from the president of the [redacted] confirm the Petitioner having been a member of the [redacted] team in 2002 and attest "that being selected for [redacted] to compete in the [redacted] requires a showing of

'outstanding achievement,' shown through exceptional talent, dedication and record of high-level competitive success in the sport," which "was determined by [redacted] experts (some of the top squash coaches in the world)." The Petitioner has not shown that being a player for the [redacted] relates to his field of squash coaching. Moreover, the letters provide general language without specific, detailed information explaining the requirements for becoming a member of the team. Instead, the letters make broad claims that players on the national team are required to have "outstanding achievements" as "judged by recognized national experts." Repeating the language of the statute or regulations does not satisfy the Petitioner's burden of proof. Fedin Bros. Co., Ltd. v. Sava, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), aff'd, 905 F. 2d 41 (2d. Cir. 1990); Avyr Associates, Inc. v. Meissner, No. 95 CIV. 10729, *1, *5 (S.D.N.Y. Apr. 18, 1997). Similarly, USCIS need not accept primarily conclusory assertions that are not supported by sufficient evidence, which proves the allegation. *See 1756, Inc. v. The US. Att'y Gen.*, 745 F. Supp. 9, 17 (D.D.C. 1990).

For these reasons, the Petitioner has not established that he meets the requirements for this criterion. We withdraw SCOPS' determination to the contrary.

3. "Published material about the alien in professional or major media 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).

The Petitioner relies on five articles and two video interviews to meet this criterion. The materials, however, are not about the Petitioner and his work in his field. For instance, a video interview of the Petitioner relates to issues with the [redacted] instead of being about the Petitioner and his work in the field of squash coaching. The second video is an interview of another squash player and is about that player, with only a brief mention that the Petitioner's business sponsors that player. Similarly, three articles are about squash teams competing at events and only briefly mention the Petitioner's name as a squash player on the teams. The remaining articles are not about the Petitioner, but about squash academies hosting youth squash festivals.

For the reasons discussed, the Petitioner did not show he meets this criterion.

4. "Evidence of the alien's participation, either individually or on panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iv).

To meet this criterion, the Petitioner contends that he participated as a judge of squash players as an assistant coach for the [redacted] from 2018 to 2022. He submitted two letters of recommendation, one from the president of the [redacted] and the other from the former head coach of the [redacted] The letters confirm that the Petitioner was an assistant coach for the [redacted] having evaluated and documented the performance of prospective team players at tournaments, including their "shot selection, court movement, stamina, mental toughness, and overall behavior on and off the court . . . ." The letters further explain that the coaching staff's analyses, including reports provided by the Petitioner, were discussed at meetings

with the head coach, the assistant coaches, and a committee, who selected the top players of each age group for the national team and who decided which players represented the team at competitive events.

Based on the evidence submitted, the Petitioner demonstrated by a preponderance of the evidence that he participated as a judge of the work of others in his field of squash, and therefore, meets this criterion. We withdraw the Director's findings to the contrary.

5. "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).

The Petitioner claims eligibility for this criterion based on winning an individual and team award at the [redacted] in Qatar while playing on the [redacted]. He relies on the letters from the former head coach of the national team and the president of the [redacted] to demonstrate that winning the awards at the prestigious Arab event is of major significance to squash globally and to Egypt.

To meet this criterion, a petitioner must first demonstrate making original contributions in the field. In addition, a petitioner must show the original contributions are of major significance to the field. The criterion focuses on whether a petitioner's original work constitutes major, significant contributions to the field.

Based on the letters submitted, the petitioner has not shown that the Petitioner's contributions as a player on the national team were original, or that his contributions were of major significance to the field of squash or his proposed field of squash coaching. The letters use language stating that the Petitioner's contributions to the national team winning at the [redacted] "further enhances the significance of this achievement, as winning for one's country is both a privilege and a monumental accomplishment." While the Petitioner may have provided contributions to his U19 national team winning at the [redacted], he has not indicated or provided evidence of his contributions being original or having major significance in his field.

For the reasons discussed, the Petitioner did not show he meets this criterion.

6. "Evidence of the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii).

We agree with the Director that the Petitioner meets this criterion.

7. Comparable evidence

Where an evidentiary standard under 8 C.F.R. § 204.5(h)(3)(i)-(x) does not "readily apply" to the Petitioner's occupation, he may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

The Petitioner contends the criterion of awards and prizes does not easily apply to his occupation as a coach, submitting evidence of his students' squash player awards as comparable evidence under 8 C.F.R. § 204.5(h)(4). He, however, does not submit evidence to support his general assertions that

the awards or prizes criterion does not readily apply to his occupation as a coach. "A general unsupported assertion that the listed evidentiary criterion does not readily apply to the petitioner's occupation is not probative." See generally 6 USCIS Policy Manual, supra, at F.2(B)(1).

Moreover, he claims that we should consider his students' awards and prizes as comparable evidence because two other criteria, display of work in the field at artistic exhibitions or showcases and commercial successes in the performing arts, do not readily apply to his coaching occupation. He, however, does not explain how submitting evidence of his students' awards or prizes are of comparable significance to these criteria. "[I]f a petitioner demonstrates that a particular criterion does not readily apply to the person's occupation, the petitioner may submit evidence that is of comparable significance to that criterion to establish sustained acclaim and recognition." Id. The Petitioner does not explain or provide evidence showing how his having been a coach of players who won awards or prizes is of comparable significance to display of work in the field under 8 C.F.R. § 204.5(h)(3)(vii) or commercial success in performing arts under 8 C.F.R. § 204.5(h)(3)(x).

Lastly, he claims his being the coach of players who won awards and prizes constitutes evidence comparable to original contributions of major significance under 8 C.F.R. § 204.5(h)(3)(v). The Petitioner points to the USCIS Policy Manual, which provides examples where comparable evidence may apply, "A person who is an Olympic coach whose athlete wins an Olympic medal while under the person's principal tutelage would likely constitute evidence comparable to that in 8 C.F.R. § 204.5(h)(3)(v)." Id.

However, the record does not include evidence demonstrating that the athletes coached by the Petitioner won awards or prizes under his principal tutelage, or that his contributions were of major significance to his field. The Petitioner submitted letters from the student athletes indicating they won the awards or prizes at the time that the Petitioner coached them. He did not, however, provide evidence to corroborate the students having won the awards or prizes, such as an official award certificate or letter from the indicated awarding organization,[2] or that the Petitioner was their principal coach. While a letter from the former head coach of the [redacted] indicates that the Petitioner was the assistant coach for the [redacted] Team and lists the awards received by team players at the time the Petitioner was the assistant coach, the evidence does not show that the Petitioner was the principal coach, but instead an assistant coach. In addition, the Petitioner has not shown that his contributions as a coach of junior players who won awards or prizes are of major significance to his field. Although the Petitioner may have coached junior squash players who won awards or prizes from age-limited junior competitions, he has not explained or demonstrated how his coaching is of major significance to the field of squash or squash coaching.

For the reasons discussed, the Petitioner did not show the comparable evidence establishes his eligibility under any of the criteria listed in the regulation.

[2] We will not consider additional evidence that the Petitioner submits on appeal. The record shows that, before the petition's denial, he had a chance to submit the materials in response to a request for additional evidence. See 8 C.F.R. § 103.2(b)(11) (requiring the submission of all requested evidence together at one time); Matter of Soriano, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence on appeal because "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

B. Reserved Issues

Because the Petitioner has not fulfilled the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we need not provide the type of final merits determination referenced in Kazarian v. USCIS, 596 F.3d at 1119-20. Accordingly, we will reserve this issue. See INS v. Bagamasbad, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision). Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

C. O-1 Nonimmigrant Status

The record reflects that in 2022 the Petitioner received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Petitioner, this approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard in statute, regulations, and case law. Many Form 1-140 immigrant petitions are denied after USCIS approves nonimmigrant petitions. See, e.g., Sunlift Int'l v. Mayorkas, et al., 2021 WL 3111627 (N.D. Cal. 2021); Q Data Consulting, Inc. v. INS, 293 F. Supp. 2d 25 (D.D.C. 2003); IKEA US v. US Dept. of Justice, 48 F. Supp. 2d 22 (D.D.C. 1999); Fedin Bros. Co., Ltd. v. Sava, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. See, e.g., La. Philharmonic Orchestra v. INS, 248 F.3d 1139 (5th Cir. 2001) (per curiam). Nor are we required to approve applications or petitions where eligibility has not been demonstrated merely because of prior approvals that may have been erroneous. See Matter of Church Scientology Int'l, 19 I&N Dec. 593, 597 (Comm'r 1988); see also Constr. & Design Co. v. Bureau of Citizenship & Immigr. Servs., 2008 WL 2074097 *5 (N.D. 111. May 14, 2008) (describing as "prudent" that the AAO "assess each application on its own, rather than rubber stamping applications merely because of prior approvals"), aff'd sub nom. Constr. & Design Co. v. US. Citizenship & Immigr. Servs., 563 F.3d 593 (7th Cir. 2009).

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. Matter of Price, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability Visinscaia v. Beers, 4 F. Supp. 3d 126, 131 (D.D.C. 2013) (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design"); Hamal v. Dep*'t of Homeland* Sec. (Hamal II), No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"); s*ee also Hamal v. Dep't of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing Kazarian v. USCIS, 596 F.3d at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian

theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); Lee v. Ziglar, 237 F. Supp. 2d at 918 (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach).

Here, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or 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 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). The record does not contain sufficient evidence establishing the Petitioner among the upper echelon in his field.

For the reasons discussed above, the Petitioner has not demonstrated his 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.