U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43204775

Date: JUNE 23, 2026

Appeal of USCIS Decision

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

The Petitioner 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.

U.S. Citizenship and Immigration Services (USCIS) denied the Form I-140, Immigrant Petition for Alien Workers (petition) and the matter is now before us on appeal under 8 C.F.R. § 103.3. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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.

The Service Center Operations (SCOPS) issued a request for evidence (RFE) indicating the Petitioner did not provide sufficient information explaining how the submitted evidence met this classification's requirements, nor did they identify their area of expertise. A review of the initially filed documents does not bear out the shortcomings listed in the RFE as the record contains a cover letter from the Petitioner's attorney explaining which criteria they were claiming and the evidence that should be applied to each regulatory criterion. The Petitioner responded to the RFE providing the information that was alleged to be absent, similar information that they had presented in the initial filing. SCOPS denied the petition explaining why the submitted evidence did not meet the eligibility requirements.

To sum up the Petitioner's appellate arguments other than they provided the information in the initial filing with the petition, they claim that SCOPS issued a vague RFE then denied the petition based on a set of specific evidentiary requirements that were not conveyed in the RFE. The Petitioner claims this does not follow the regulations or agency policy because they were not afforded a meaningful chance to respond to the actual grounds that ended up being the bases for denial. The Petitioner further requests that we return the case to SCOPS for a proper adjudication. We agree that in accordance with the regulation, SCOPS should issue a notice to the Petitioner specifying whether initial evidence or additional evidence is required, or the bases for the proposed denial sufficient to give the applicant or

petitioner adequate notice and sufficient information to respond. Also, according to agency policy, any notice should: identify the eligibility requirements that have not been established and why the evidence submitted is insufficient; identify any missing evidence specifically required by the applicable statute, regulation, or form instructions; identify examples of other evidence that may be submitted to establish eligibility; and request that evidence.

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