U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38130507

Date: JUN. 26, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a salsa dancer, choreographer, 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 Petitioner did not establish that she had received a one-time achievement (a major, internationally-recognized award) or that she satisfied at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). We dismissed a subsequent appeal, as well as combined motions to reopen and reconsider our decision. The matter is now before us on combined motions to reopen and reconsider for a second time.

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). Upon review, we will dismiss the motions.

I. MOTION TO REOPEN

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits additional evidence. She asserts that these new facts establish eligibility, as they show that she satisfies at least three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3) and is eligible for classification as an alien of extraordinary ability.

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 the petitioner's 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 aliens 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 alien 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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th. Cir. 2022).

Here, the Petitioner did not establish that she has received a major, internationally recognized award. SCOPS determined that the Petitioner met two of the evidentiary criteria by submitting evidence that she participated as a judge of the work of others in her field and displayed her work at artistic exhibitions or showcases. On appeal, we agreed with SCOPS' determination and concluded that the Petitioner had not established that she met any of the additional five evidentiary criteria she claimed. In our previous decision, we noted that the Petitioner no longer claimed to meet the criterion at 8 C.F.R. § 204.5(h)(3)(i) pertaining to lesser nationally or internationally recognized prizes or awards, and had waived the issue of her eligibility under the criterion at 8 C.F.R. § 204.5(h)(3)(viii). We dismissed the combined motions to reopen and reconsider, as the new evidence did not establish the Petitioner's eligibility for any of the three remaining criteria she claimed, and she did not assert that our appeal decision was based on an incorrect application of law or policy.

In her current motion, the Petitioner does not reassert her previous claim to meet the criterion at 8 C.F.R. § 204.5(h)(3)(ii), pertaining to her memberships in associations requiring outstanding achievement. Therefore, we will consider the new evidence under the remaining criterion below.

A. Published Material About the Petitioner Relating to Her Work in the Field

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) seeks "[p]ublished 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." It also requires that such evidence includes "the title, date, and author of the material, and any necessary translation."

The record includes evidence of several published articles on the topic of salsa dancing, some of which mention the dance studio which the Petitioner co-founded and directs, [redacted] and some in which she is featured. We concluded in our appeal decision that several of those articles did not identify the name of the publication, and in other cases that the record was insufficient to establish that the publications in which the articles appeared qualified as professional or major trade publications or other major media. Specifically, we noted that there was insufficient evidence regarding the circulation, readership, or viewership of these publications to show that they were either major trade or major media publications.

In support of her previous motion to reopen, the Petitioner submitted two articles for the first time, one published on the website of [redacted] on [redacted] 2016 and another published on the website of [redacted] on [redacted], 2016. While we acknowledged that these articles mentioned the Petitioner and her work as a salsa dancer, teacher, and choreographer, and included quotations from her, we concluded that the record did not include circulation or viewership data regarding these publications and their websites or evidence of their intended audience. With her motion, the Petitioner now submits credible evidence that the websites of both of those publications have high rankings in term of viewership in Colombia, and thus that they qualify as major media.

Further, the Petitioner also submits for the first time on motion the transcript of an interview of her dated [redacted] 2015 and posted on [redacted] The interview discusses the Petitioner's role as choreographer for [redacted], and the travels of the [redacted] show members to China to perform. In her brief, the Petitioner asserts that [redacted] results show that [redacted] has a national audience of more than 1.9 million listeners. But these assertions are not supported by documentary evidence showing these results or their source, and the record lacks comparative evidence showing that that level of listenership qualifies the radio station as major media. Accordingly, she has not established that the interview of her on [redacted] was published in professional or major trade publications or other major media.

We conclude that the Petitioner meets the plain language of this criterion.

B. Final Merits Determination

Based on the new evidence submitted with her motion, the Petitioner has now established that she meets at least three of the evidentiary criteria. As she has therefore met the initial evidence requirements for classification as an alien of extraordinary ability, we will not consider her assertions that she also has made original artistic contributions of major significance in her field, and thus meets the criterion at 8 C.F.R. § 204.5(h)(3)(v). Instead we will consider the evidence filed in support of that criterion together with the totality of the record in conducting a final merits determination.

In a final merits determination, we examine and weigh the totality of the evidence to determine whether the Petitioner has sustained national or international acclaim and is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation. As extraordinary ability is an elite level of accomplishment

whose recognition necessarily entails a judgement call, it cannot be established through meeting at least three of the evidentiary criteria alone. *Amin v. Mayorkas*, 24 F.4th 383, at 395 (2022). The final merits determination is the ultimate statutory inquiry of whether the applicant has extraordinary ability as demonstrated by sustained national or international acclaim. *Id.* Our review of the entirety of the record shows that the Petitioner has not established that she has achieved sustained recognition and is one of the small percentage at the top of her field.

The Petitioner has been active as a salsa dancer, choreographer, artistic director, and instructor since at least 2000 when she founded the dance school [redacted] in [redacted] Colombia, along with her father and sister. The record includes evidence that dancers and dance ensembles trained by and representing the school successfully competed in several salsa and Latin dance competitions, including the [redacted] (held annually in [redacted] on multiple occasions from 2011 through 2019, and the [redacted] Florida in 2012. While none of these awards were granted to the Petitioner as an individual, there is sufficient evidence in the record to demonstrate that she played an important part in the school receiving these awards through her various roles. But we also concluded on appeal that there was insufficient evidence in the record to show the recognition or prestige of the [redacted] and [redacted] such that the Petitioner's association with the awarded school would constitute recognition in the field at the national or international level. As stated above, the Petitioner did not challenge our previous determination regarding the recognition of the awards, and she has not submitted additional evidence on motion showing that they reflect widespread acclaim for her work with [redacted] in the field of dance. We also note that despite evidence of international participation in these competitions, it is sustained national or international *acclaim* that must be shown for classification as an alien of extraordinary ability.

The record also includes evidence that the Petitioner received individual accolades for her work with [redacted] For example, an award was granted to her in [redacted] 2014 by San [redacted] for her work as a choreographer and "contribution to the strengthening of Salsa as a cultural heritage of [redacted]" A professor at the school, H-V-S-, writes that the Petitioner received this award due to her work in the promotion and development of [redacted] salsa, noting her role as a founder of [redacted] and participation with the [redacted] and international tours. But the Petitioner has not established that this award from a local university, which was also sponsored by the [redacted] tourism department, shows widespread acclaim for her work as a choreographer from others in the field of dance.

Another individual award given to the Petitioner is referenced in a letter from an official of the [redacted] which confirms that the Petitioner received an award of 1,000,000 pesos on December 25, 2019 for [redacted]" An undated article from an unknown publication states that the Petitioner was one of two choreographers awarded at the [redacted] event in 2019, which the article states was organized by [redacted] for the opening of the [redacted] As this evidence indicates that consideration for the award was limited to dance schools in [redacted] and granted by what appears to be a department of the [redacted] government, and given the modest amount of the monetary award she received, it does not reflect national or international acclaim for the Petitioner and her work as a choreographer.

Further, the evidence regarding another award received by the Petitioner is insufficiently supported. The record includes a photograph of a "[redacted] 2019" trophy from the "[redacted]," but as we noted in our previous decision the name on this trophy does not match the Petitioner's. She has not challenged or explained this discrepancy,[1] nor has she submitted additional information about the award or the organization that granted it. She has therefore not verified her receipt of this award or provided any documentation to support the level of acclaim represented by this award.

In addition to participating in competitions in which prizes are awarded, the record also shows that the Petitioner participated as a dancer and choreographer in salsa performances with [redacted] and other salsa groups, including [redacted] A letter from the founder and director of [redacted] states that, during her six-month tenure with this dance company, the Petitioner "contributed prominently to the creation and execution of choreographies" which were presented at several hotels in [redacted]. An article published in [redacted] on [redacted] 2008, discusses the Petitioner's participation in a European tour by [redacted] as a dancer, and a letter from the general director of that organization verifies her role as a principal dancer, choreographer, and artistic coordinator from October 2007 to February 2020. And in an interview posted on [redacted] on [redacted] 2015, the Petitioner talks about travelling with [redacted] to China to perform and provide salsa lessons. Although this evidence shows that in her career in dance the Petitioner's work has been displayed at a number of venues, including some beyond [redacted] and her native Colombia, it does not show that these venues were prestigious such that she garnered acclaim by performing her work at them.

Another aspect of the Petitioner's salsa career is her service as judge in dance competitions. Her initial filing included evidence that she served as juror at internal dance competitions at what appear to be dance schools in [redacted] in 2009 and 2015, as well as a salsa congress in [redacted] and at the [redacted] fair in [redacted] in 2021. While this evidence was sufficient to meet the criterion at 8 C.F.R. § 204.5(h)(3)(iv), the record does not include additional evidence about the events, such as the competition level of the dancers she judged or the prestige of the events at which they competed. *See Hamal v. U.S. Dep't of Homeland Sec.*, No 21-5160, 2023 WL 1156801, at *2 (D.C. Cir., Jan. 31, 2023)(finding that a movie director failed to show that he had served as a judge of renowned directors as opposed to aspiring artists, or that the competitions are "considered prestigious or attract significant attention by the field.") Without this needed context, the Petitioner has not shown that her service as a judge of other salsa dancers is indicative of national or international acclaim or places her amongst the small percentage at the very top of her field.[2]

The evidence as discussed above demonstrates that the Petitioner has been important to the promotion and development of salsa in her hometown of [redacted] through her work with [redacted] and [redacted] and that she has played a role in the success of those organizations. For the first time on

[1] It is the Petitioner's burden to resolve this discrepancy in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

[2] With her motion, the Petitioner submits a letter from the artistic director of [redacted] and [redacted], inviting her to participate as a judge for the Latin dance competition to occur in [redacted] 2025. we note that this invitation was received by the Petitioner well after she filed her immigrant petition seeking classification as an alien of extraordinary ability in 2022. Eligibility must be established at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998).

motion, she asserts that she has contributed to [redacted] style salsa more broadly through her development of a training program for salsa dancers, the [redacted]" which "represents a groundbreaking methodology" that produces elite dancers. In support of this assertion, she submits a six-page document presenting the goals of the program in broad terms, showing six levels of development from "technical foundations and basic body awareness" to "international elite and global representation." The document lacks any specific information about how these steps are implemented in the purported training program, and the record lacks sufficient supporting evidence showing that any such program is unique to the Petitioner and "groundbreaking."

The Petitioner also submits two new written statements from salsa dancers who had previously submitted statements. J-A-B-M-, a dance sport athlete who asserts that he has successfully competed at several international competitions, states that the Petitioner "has been instrumental in the consolidation of my professional and competitive career." He goes on to describe technical aspects of his training with the Petitioner from 2006 to 2013, which he states led to his gold medal in the 2013 [redacted]. Finally, he asserts that the Petitioner "has been a key figure in the professionalization of [redacted] style salsa," and that her teaching method has been implemented in more than 200 dance academies.

A similar new statement was signed by J-C-B- and E-L-, who state that they are "[redacted] in [redacted]." They state that they began training with the Petitioner as a pair in 2007, and that this led them to "stand out on the most demanding stages of the global sports dance circuit." In addition, they write that the Petitioner "has successfully professionalized the concept of choregraphed performances in salsa," and that her teaching methodology "has been key in the establishment of more than 200 salsa schools in [redacted] (Colombia)."

In our previous decision we reviewed the letters from these individuals submitted with the Petitioner's initial motions to reopen and reconsider, noting that the letters did not explain the uniqueness of her training methods or choreography. While these new letters use technical terms and make claims regarding the widespread implementation of the Petitioner's claimed training program, they are not supported by documentary evidence of the program's widespread acclaim, or verification of its implementation at the national or international level from other dance schools. This lack of supporting evidence, combined with the sparse evidence of the training program itself, strongly undermines the assertions of the letter writers concerning its impact and implementation in the field of dance.

Per the discussion above, the Petitioner has achieved a certain level of national acclaim, primarily for her work as a choreographer for both [redacted] and [redacted]. But to establish eligibility as an alien of extraordinary ability, a petitioner must also show that the acclaim they have received has been sustained. In other words, they must establish that any acclaim they have received in the past has been maintained at a comparable level. *See generally* 6 *USCIS Policy Manual* F.2(A)(1), www.uscis.gov/policy-manual. Here, the bulk of the evidence showing the Petitioner's acclaim stems from events occurring several years before she filed her petition. For example, both of the articles about the Petitioner and her work in the field discussed above were published in 2016, and all but one of the remaining articles which mention the Petitioner were published in that year or earlier. The undated article from an unknown source which mentions the Petitioner's receipt of an award from [redacted] in 2019 is not persuasive of sustained national acclaim because its source cannot be verified.

Similarly, while we have acknowledged the Petitioner's role in the awards granted to dancers representing [redacted] the last of those awards documented in the record was received by the school in 2018. While we acknowledge the letter from the [redacted] which states that the school was also awarded at the city's [redacted] in 2019 and 2022, the record lacks the same documentary evidence of those awards that was submitted for those from 2018 and earlier. In addition, the Petitioner indicated, and USCIS records confirm, that she last entered the United States in 2022 and has remained here since, bringing into question her involvement in the 2022 competition.

The Petitioner also continued to participate as a judge of the work of other salsa dancers on two occasions in 2021, but the lack of information regarding the level of dancers judged and the nature and prestige of the events detracts from the persuasiveness of this evidence in showing national or international acclaim. The [redacted] event appears to have been limited to dancers from schools in [redacted] and the naming of the event in [redacted] as a [redacted] is insufficient, by itself, to show that the Petitioner's participation signified acclaim at the global (or national) level.

We add that the record does not establish that the Petitioner is one of the small percentage of dancers or choreographers at the very top of this field. Even if the field is narrowed to those focusing on Latin dance, including salsa, the Petitioner has not shown that her achievements place her among the elite few. As noted above, while she has been individually recognized for her work by local organizations in [redacted] and successfully developed her dance school there, the evidence does not show that she stands out among those performing similar activities in other cities and countries where Latin dance is performed. While she has performed, and had her choreographies performed, in other countries, she has not demonstrated that those performances place her at or very close to the top pf her field. We therefore conclude that the Petitioner has not established her eligibility as an alien of extraordinary ability.

II. MOTION TO RECONSIDER

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). Because the scope of a motion is limited to the prior decision, we will only review the latest decision in these proceedings. 8 C.F.R. § 103.5(a)(1)(i), (ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

The Petitioner does not assert that our previous motion decision was based on an incorrect application of law or policy. While she states that she disagrees with our decision, her assertions regarding her eligibility are based upon her submission of new evidence, which we have analyzed in detail above. Accordingly, we conclude that the Petitioner has not met the requirements of a motion to reconsider.

Although the Petitioner has submitted additional evidence in support of the motion to reopen, the Petitioner has not established eligibility. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.