U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41754677

Date: MAR. 10, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an attorney who is licensed to practice law in Ukraine, 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 (EB-1) classification makes immigrant visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their fields through extensive documentation.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish the Petitioner had satisfied at least three of ten initial evidentiary criteria. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner contends that SCOPS incorrectly held that the field of law is categorically excluded from EB-1 classification eligibility, mischaracterized the Petitioner's field and intended work in the United States, applied an incorrect requirement of U.S. bar licensure, failed to conduct the *Kazarian* two-step analysis, and improperly rejected corroborating evidence.

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.

I. LAW

Section 203(b)(1) of the Act makes visas available to aliens 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). *See also Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) ("EB-1 petitions, nicknamed Einstein visas, are coveted visas reserved for only the most talented noncitizens with extraordinary ability in the sciences, arts, education, business, or athletics"). 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 recognition of the beneficiary's 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 they 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). Additionally, if the criteria at 8 C.F.R. § 204.5(h)(3) do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's 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 beneficiary is among the small percentage at the very top of the field of endeavor. *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 intends to work in the United States as an international attorney and governance and compliance advisor. With respect to his proposed endeavor, the Petitioner stated that "[i]n the United States, [he] intend[s] to apply [his] experience and skills in law, public administration, environmental regulation to serve the national interest in several critical ways," and "[t]o formalize this contribution, [he is] planning establish a U.S.-based legal consultancy that provides policy guidance and legal services to organizations working on Ukraine-related projects and broader international development initiatives." The Petitioner further stated that "[his] goal is to integrate into the American legal field, offering specialized expertise in international environmental law, legislative design, and transitional legal system."

Although the Petitioner claimed to meet eight of the ten evidentiary criteria, SCOPS did not sufficiently address the evidence presented under these criteria. Instead, SCOPS focused on the listing of "an international attorney and governance and compliance advisor" as a profession under section 101(a)(32) of the Act, concluding that the Petitioner is not eligible for classification as aliens of extraordinary ability unless his proposed field of endeavor and occupation fall within the sciences, arts, education, business or athletics. SCOPS found that the Petitioner's "proposed field of endeavor (law) and occupation (attorney) do not fall within the fields of science, arts, education, business, or athletics" and concluded that "the submitted evidence does not indicate that [the Petitioner is] eligible

for [the EB-1 visa] classification because [his] field of endeavor (law) is not within the sciences, arts, education, business, or athletics."[1]

On appeal, the Petitioner claims that "[a]t no point did [he] indicate any intention to practice U.S. law or to seek admission to a state bar," and "[a]ny reference in the record to legal consultancy clearly pertain to international advisory services, not to the practice of law within any U.S. jurisdiction." Upon de novo review, we find that the record includes evidence, which demonstrates that the Petitioner's proposed employment in the United States as an international attorney and governance and compliance advisor, his proposed endeavor to establish a legal consulting firm that provides policy guidance and legal services to organizations working on Ukraine related projects and international development initiatives, and his claimed experience and skills in law, public administration, and environmental regulation place his area of expertise within the field of social science or business. We agree with the Petitioner that SCOPS did not sufficiently evaluate the evidence presented under his claimed eight criteria.[2]

On remand, SCOPS should evaluate the evidence in the record to determine whether it establishes that the Petitioner as an attorney in the field of social science or business meets three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3). If SCOPS determines that it does, SCOPS should then consider whether the totality of the evidence shows that the Petitioner has sustained national or international acclaim in the field of international advisory services and that the Petitioner is one of the very small percentage at the top of this field. *See s*ection 203(b)(1) of the Act; 8 C.F.R. § 204.5(h)(2). *See also Kazarian v. USCIS*, 596 F.3d at 1119-20.

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

[1] While SCOPS did not include in its decision a citation to the 1995 opinion of the General Counsel of the legacy Immigration and Naturalization Service (INS) in this matter, we note that the decision essentially adopts the reasoning of that opinion. GenCo Op. No. 95-3 (INS), 1995 WL 1796310. General Counsel opinions are advisory in nature and are, therefore, not binding. *R.L. Inv. Ltd. Partners v. INS*, 86 F.Supp. 2d 1014, 1022 (D. Haw. 2000). *Aff'd* 273 F.3d 874 (9th Cir. 2001).

[2] Nevertheless, we advise that we have reviewed the record in the aggregate, concluding it does not support a finding that the Petitioner has submitted the required initial evidence of either a major, one-time achievement or documents that meet at least three of the ten criteria. *See* 8 C.F.R. § 204.5(h)(3). The record also does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought. *See* section 203(b)(1) of the Act; 8 C.F.R. § 204.5(h)(2).