U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41737755

Date: MAR. 10, 2026

Appeal of Service Center Operations (SCOPS) 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 (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 disregarded the preponderance of the evidence standard and the evidence submitted, denied based on new issues not raised in a request for evidence, misapplied the pertinent regulations and the *Kazarian* framework, and imposed extra-regulatory job offer requirements.

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 a leadership and organization development specialist based on his experience in the [redacted] as a [redacted]. With respect to his proposed endeavor, the Petitioner stated that his future work in the United States "will be structured around three pillars: leadership training, organizational development, and institutional culture building, applied across academic, community, and corporate environments."

Although the Petitioner claimed to meet seven of the ten evidentiary criteria, SCOPS did not sufficiently address the evidence presented under these criteria. Instead, SCOPS focused on the listing of "a leadership and organization development specialist" 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 occupation falls within the sciences, arts, education, business or athletics. SCOPS found that the Petitioner's "evidence does not appear to be in the fields of the sciences, arts, education, business, or athletics" and concluded that "the petition does not allow for any field of extraordinary ability other than the sciences, arts, education, business, or athletics."[1]

[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).

However, upon de novo review, we find that the record includes evidence, which demonstrates that the Petitioner's proposed employment in the United States as a leadership and organization development specialist and his relevant past experience in the [redacted] place his area of expertise within the field of business. The Petitioner claimed that his "professional life has been centered on cultivating leadership, building resilient organizations, and guiding complex institutions under demanding circumstances." We agree with the Petitioner that SCOPS did not sufficiently evaluate the evidence presented under his claimed seven criteria.[2]

On remand, SCOPS should evaluate the evidence in the record to determine whether it establishes that the Petitioner as a retired [redacted] with the [redacted] who intends to work in the United States as a leadership and organization development specialist in the field of 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 leadership and organization development 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.

[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).