U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41694554

Date: MAR. 19, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a clinical director of implant support, 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 record did not establish that the Petitioner met the initial evidentiary requirements through evidence of a one-time achievement or meeting at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

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).

II. ANALYSIS

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). SCOPS decided that the Petitioner satisfied one criterion relating to authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(vi). SCOPS found that the Petitioner did not meet the remaining four claimed evidentiary criteria associated with judging, original contributions, performing in a leading or critical role, and high salary at 8 C.F.R. § 204.5(h)(3)(iv), (v), (viii), and (ix). On appeal, the Petitioner again asserts that the Beneficiary meets the same five criteria. We will not disturb SCOPS's determinations regarding the Beneficiary's authorship of scholarly articles. Upon de novo review, we conclude that the Petitioner has met at least two additional criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x) and has therefore satisfied the initial evidence requirements.

A. Judging

The regulation at 8 C.F.R. § 204.5(h)(3)(iv) requires "[e]vidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought." The petitioner must show that the person has not only been invited to judge the work of others, but also that the person actually participated in the judging of the work of others in the same or an allied field of specialization. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

SCOPS determined that the Petitioner did not meet this criterion, however, the record does include evidence that the Beneficiary participated as a judge of the work of others in his field. The Petitioner provided evidence that the Beneficiary served as an official examiner in the postgraduate program in implant dentistry at the [redacted] His responsibilities included, "evaluating residents' theoretical knowledge and clinical decision-making;" "participating in the oral

defense of theses and clinical case presentations;" and "determining whether the candidates met the academic and clinical standards required for successful program completion." An example of judging the work of others may include serving as a member of a Ph.D. dissertation committee that makes the final judgment as to whether a candidate's body of work satisfies the requirements for a doctoral degree, as evidenced by departmental records. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Based on the record, the Petitioner has met the criterion. We withdraw SCOPS' findings to the contrary.

B. Leading or Critical Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. For a critical role, we look at whether the evidence establishes that the alien has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner asserts that the Beneficiary serves in a critical role as a clinical director of implant support, particularly in increasing revenue by 23.5% through his expertise, which expanded the number of patients receiving implants. The Petitioner further states that the Beneficiary plays a critical role for the company through his educational services, as he is one of only ten individuals, out of a workforce of 5,000 employees, certified to teach clinical courses that generate continuing dental education credits. The Petitioner submitted letters from his employer and colleagues attesting that he has played a critical role.

We conclude that the Petitioner has shown, by a preponderance of the evidence, that he performed in a critical role for a company with distinguished reputation.

C. Final Merits Determination

Based on the foregoing discussion, the Petitioner has satisfied at least three of the ten evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i)-(x).[1] We will therefore withdraw SCOPS' decision, because that decision was based on a determination that the Petitioner had satisfied only one criterion and did not satisfy the initial evidence requirements for this classification.

However, granting three criteria does not suffice to establish eligibility for the classification the Petitioner seeks. USCIS must now make a final merits determination on the Petitioner's filing and consider whether the record establishes the sustained national or international acclaim and recognized achievements sufficient to place the Petitioner among the small percentage at the very top of his field.

[1] We need not consider the Petitioner's arguments that he meets additional evidentiary criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x), beyond the three already granted. *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). As the matter will be remanded, SCOPS may consider those arguments prior to addressing the final merits.

See section 203(b)(l)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. SCOPS did not make such a finding. Rather than make this determination in the first instance, we will remand the matter to SCOPS.

The final merits determination should weigh the evidence submitted in support of all claimed initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), any other potentially relevant evidence in the record (including evidence that does not fit one of the evidentiary criteria), and the Petitioner's claims and evidence on appeal. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2).

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