U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42276198

Date: MAY 11, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an investment portfolio manager, 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.

SCOPS denied the petition, concluding that the Petitioner did not establish the Petitioner met the initial evidence requirements for the classification by establishing his receipt of a major, internationally recognized award or by meeting three of the ten 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 SCOPS' decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants 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). 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 the recognition of his or her 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 he or she 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). If an evidentiary standard under 8 C.F.R. § 204.5(h)(3)(i)-(x) does not "readily apply" to a petitioner's occupation, the petitioner may submit "comparable evidence" to establish 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 individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115, 1121 (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) (upholding USCIS' two-step review process as "consistent with the governing statute and regulation").

II. ANALYSIS

The Petitioner is seeking to be classified as an alien of extraordinary ability in the field of investment portfolio management with a specialization in emerging markets fixed income.

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, the issue to be addressed on appeal is whether the Petitioner satisfied at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claims he meets four of the regulatory criteria, namely

- lesser nationally or internationally recognized awards or prizes,
- published materials about the individual in professional publications relating to work in the field,
- leading or critical role, or
- high salary or renumeration in relation to others.

8 C.F.R. § 204.5(h)(3)(i), (iii), (viii), (ix).

Although SCOPS stated in a notice of intent to deny (NOID) that the Petitioner met all the criteria, SCOPS' decision concluded that the Petitioner did not meet any of the four claimed criteria. SCOPS' decision explained that when it issued the NOID, it initially considered the evidence with the Petitioner having extraordinary ability as a "financial expert" but re-examined the evidence for its decision based on the Petitioner's NOID reply stating that his extraordinary ability is in "Fixed-Income Emerging Markets." We note that the Petitioner's initial petition claimed his extraordinary ability was in

investment portfolio management with a specialization in emerging markets fixed income with his intent to continue working in his specialty with his new company, [redacted].

On appeal, the Petitioner claims that the evidence demonstrates he meets the four claimed criteria. In addition, the Petitioner asserts SCOPS made numerous errors and did not fully explain the reasons for denying the petition. Upon review, we find that SCOPS' decision did not adequately address all the claimed evidentiary criteria, analyze the evidence provided, or fully explain the reasons the petition was denied.

For instance, for the awards criterion, SCOPS' decision identifies the claimed awards, but the decision does not identify or analyze any of the evidence submitted by the Petitioner in support of the criterion. Similarly, for the published material criterion, SCOPS' decision does not identify or meaningfully analyze the evidence submitted by the Petitioner. Instead, the decision provides a brief statement, "[t]he published material submitted primarily addresses the field of finance in general and focuses on your opinions rather than being directly about you, as required."

For leading or critical role, SCOPS determined that the Petitioner did not establish his role as Head of Fixed Income Americas at [redacted] met the criterion because information from public sources contradicted evidence in the record. SCOPS stated that according to public source information, two individuals other than the Petitioner held the role of "[H]ead of the Fixed Income Boutique" at [redacted] from 2023 to 2025, and based on these discrepancies, cast doubt on the reliability and sufficiency of the evidence the Petitioner submitted relating to his role as Head of Fixed Income Americas at [redacted] in 2023. SCOPS, however, did not identify or provide details of the public sources. Moreover, SCOPS' decision identifies two different roles, the Petitioner's claimed leading role is "Head of Fixed Income Americas," which differs from the role SCOPS indicates was held by other individuals, "Head of the Fixed Income Boutique." SCOPS did not explain why it considered the two roles with different names to be the same role. Instead of addressing the various deficiencies under the applicable regulation at 8 C.F.R. § 204.5(h)(3)(viii), SCOPS' analysis mainly relied on evidence outside the record of proceedings, including undisclosed public sources.

Pursuant to 8 C.F.R. § 103.2(b)(16)(ii), "a determination of statutory ineligibility shall be based only on information contained in the record of proceeding" which is disclosed to the petitioner. To ensure fair and complete consideration of the proceedings before us, it is necessary that the record of proceedings contains copies of all evidence considered. SCOPS bears the responsibility of ensuring that the record is complete and contains all evidence submitted by the Petitioner and any other evidence considered by SCOPS in reaching the decision. *See* 8 C.F.R. § 103.2(b)(1); *cf. Matter of Gibson*, 16 I&N Dec. 58, 59 (BIA 1976). Here, SCOPS issued a NOID but did not identify any specific derogatory information and the record lacks copies of any open-source materials SCOPS may have reviewed. As a result, the Petitioner did not have a meaningful opportunity to address the derogatory information.

Moreover, under leading or critical role, SCOPS' decision points out that the Petitioner "departed [redacted] in May 2025 and founded [redacted], which, based on the submitted documentation, focuses on Stock & Bond Investing, Financial Literacy, and Financial Planning, rather than Fixed-Income Emerging Markets." The record, however, does not indicate that the Petitioner claimed a leading or critical role based on his role at [redacted]. SCOPS did not provide a basis for this statement, and it should be clarified in any further decision. Moreover, the Petitioner clearly indicated

in his initial petition and in his NOID reply that his role with [redacted] is investment portfolio management with a specialization in emerging markets fixed income.

In its analysis of high salary, SCOPS' decision does not provide a meaningful analysis of the evidence submitted by the Petitioner. In addition, SCOPS relies on "public sources" to understand the Petitioner's field and the salary comparison data evidence submitted by the Petitioner, determining that the Petitioner did not meet the criterion because his position is not equivalent to the position included in the salary comparison data. SCOPS does not identify or provide details of the public sources.

SCOPS' decision did not address the evidence the Petitioner submitted with specificity and improperly dismissed evidence without proper explanation. When denying a petition, an officer shall explain in writing the specific reasons for denial. 8 C.F.R. § 103.3(a)(1)(i). An officer must fully explain the reasons for denial to allow the petitioner a fair opportunity to contest the decision and our opportunity for meaningful appellate review. *Cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that an Immigration Judge must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, SCOPS' errors deprived the Petitioner of a fair opportunity to appeal the denial and inhibit our ability to meaningfully review the denial on appeal.

III. CONCLUSION

Based on the deficiencies discussed, we will withdraw the decision and remand the matter to SCOPS. On remand, SCOPS is instructed to re-evaluate the evidence submitted in support of the petition to determine whether the Petitioner satisfied the plain language of at least three criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), and to issue a new decision. On remand, SCOPS should provide the Petitioner with a meaningful opportunity to address any derogatory information and request any additional evidence pertinent to the new determination. In addition, SCOPS should review the Petitioner's appellate brief, which further addresses the previously submitted evidence.

As SCOPS did not conclude that the Petitioner met the initial evidence requirements, the decision did not include a final merits determination. If after review SCOPS determines that the Petitioner received a major, internationally recognized award or satisfied at least three criteria at 8 C.F.R. 204.5(h)(3), the new decision should include an analysis of the totality of the record evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation. *See* section 203(b)(l)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian v. USCIS*, 596 F.3d at 1119-20; *see generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(2).

We express no opinion regarding the ultimate resolution of this case on remand.

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