U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37600964

Date: MAY 14, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-129, Petition for a Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, an art management business, seeks to classify the Beneficiary as an interior designer of extraordinary ability. To do so, the Petitioner pursues O-1 nonimmigrant classification, available to individuals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

Service Center Operations (SCOPS) denied the petition, concluding the Petitioner did not establish the Beneficiary's satisfaction of the initial evidentiary criteria applicable to individuals of extraordinary ability in the arts: nomination for or receipt of a significant national or international award, or at least three of six possible forms of documentation. The matter is now before us on appeal. 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 dismiss the appeal.

I. LAW

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics, which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of arts" as "distinction," and "distinction" as "a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts." *See* 8 C.F.R. § 214.2(o)(3)(ii). Next, DHS regulations set forth alternative initial evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner may submit evidence either of nomination for or receipt of "significant

national or international awards or prizes" such as "an Academy Award, an Emmy, a Grammy, or a Director's Guild Award," or at least three of six listed categories of documents. *See* 8 C.F.R. § 214.2(o)(3)(iv)(A)-(B). A petitioner may submit comparable evidence if the criteria do not readily apply to the beneficiary's occupation. *See* 8 C.F.R. § 214.2(o)(3)(iv)(C).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994) ("The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met."). Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows extraordinary ability in the arts. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iv).

II. ANALYSIS

SCOPS determined the Petitioner did not claim the Beneficiary's nomination for, or receipt of, significant national or international awards or prizes under 8 C.F.R. § 214.2(o)(3)(iv)(A). In addition, SCOPS concluded the Petitioner established the Beneficiary's eligibility for only one of the four claimed alternative criteria, in which at least three must be fulfilled. On appeal, the Petitioner contends the Beneficiary satisfies three additional categories of evidence.[1]

A. 8 C.F.R. § 214.2(o)(3)(iv)(B)(*1*)

The regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*1*) requires "[e]vidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications contracts, or endorsements." This criterion requires evidence of the beneficiary's past lead or starring participation in distinguished productions or events, and the beneficiary's prospective lead or starring participation in distinguished productions or events.[2] Evidence may demonstrate a lead role by establishing that the person has a principal role in the event or production, and a starring role means a position of great prominence relative to others in the event or production.[3]

Regarding the Beneficiary's past services, the Petitioner claimed the Beneficiary's eligibility for this criterion based on "a number of well-known projects that have won internationally renowned awards": [redacted] China), [redacted] China), and [redacted] China).

At initial filing, as it relates to [redacted] the Petitioner referenced a restaurant brochure, an article posted on sohu.com about the restaurant, evidence of the restaurant's receipt of a [redacted], and evidence of the Beneficiary listed as the lead designer for an [redacted] Award. Regarding [redacted], the Petitioner pointed to the restaurant's [redacted] Award.

[1] Any ground of ineligibility that is not raised on appeal is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).
[2] *See generally* 2 *USCIS Policy Manual*, M.4(D)(2), https://www.uscis.gov/policymanual.
[3] *Id.*

As it pertains to [redacted], the Petitioner indicated an article posted on [redacted]com about the apartment.

In response to a request for evidence, the Petitioner referenced previously submitted documentation, such as articles posted on [redacted]com and [redacted].com and published in [redacted] and letters from F-L- and P-C-L-. The Petitioner also submitted a business license, lease, and articles of association for [redacted] Ltd., email records from magazines' editorial teams, and letters from L-W-, Y-M-, and S-Z-.

To meet this criterion, the petitioner must submit evidence in the form of critical reviews, advertisements, publicity releases, publications contracts, or endorsements.[4] Advertisements, publicity releases, and endorsements are promotional materials.[5] Endorsements are public facing and serve a marketing purpose.[6] This exhaustive list does not include unpublished testimonial or recommendation letters.[7] Besides [redacted] brochure, the Petitioner did not demonstrate how the documentation, such as award certificates, articles, and testimonial letters, qualifies under the evidence stipulated for this regulatory criterion. Here, the Petitioner did not establish that the evidence constitutes critical reviews, advertisements, publicity releases, publications contracts, or endorsements.[8]

Regarding the restaurant brochure, the Petitioner did not show that the document reflects the Beneficiary performed services as a lead or starring participant . In fact, the brochure does not mention or indicate the Beneficiary's involvement. Evidence may demonstrate a lead role by establishing that the person has a principal role in the event or production.[9] A starring role means a position of great prominence relative to others in the event or production.[10] Furthermore, the Petitioner did not demonstrate how the brochure indicates the restaurant's distinguished reputation. Besides claiming that it "is a high-end restaurant" and providing a brief history of the restaurant, the brochure does not reflect that the restaurant enjoys a distinguished reputation. In evaluating the distinguished reputation of a past production or event, USCIS may consider factors such as favorable critical reception, high attendance levels, commercial success, or another indicator that the petitioner establishes would tend to distinguish the reputation of an event or production in the relevant field.[11]

For these reasons, the Petitioner did not demonstrate that it provided the required regulatory documentation establishing that the Beneficiary performed services as a lead or starring participant for [redacted] or [redacted], as well as their distinguished

---

[4] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(2).
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] Although the Petitioner highlighted the Beneficiary's name as a shareholder in the articles of association for [redacted] the Petitioner did not show how this constitutes evidence of the Beneficiary's leading or starring participation for any of the projects.
[9] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(2).
[10] *Id.*
[11] *Id.*

.

reputations. Accordingly, we reserve a determination on whether the Petitioner has shown the prospective aspect of this regulatory criterion.[12]

Accordingly, the Petitioner did not establish the Beneficiary satisfies this criterion.

B. 8 C.F.R. § 214.2(o)(3)(iv)(B)(*2*)

The regulation at 8 C.F.R. § 214.2(o)(3)(iv)(B)(*2*) requires "[e]vidence that the alien has achieved national or international recognition for achievements evidenced by critical reviews or other published materials by or about the individual in major newspapers, trade journals, magazines, or other publications." In determining whether the submitted evidence demonstrates that the beneficiary has achieved national or international recognition for achievements, USCIS considers both the content of the published material and the level of recognition enjoyed by the publication in which it appears.[13] For example, favorable coverage or publication of the beneficiary's work in major media, as demonstrated by high relative circulation, readership, or viewership figures, could establish national or international recognition of the beneficiary's achievements.[14]

The record reflects that the Petitioner presented articles from [redacted].com, [redacted]com, [redacted], and [redacted]com. On appeal, the Petitioner argues:

> Evidence included documents showing that [redacted] has 29,000 website traffic, 30,000 page views, 50,000 total impressions and 25,000 email subscribers, that Hospitality Design magazine's print version reaches 50,000 subscribers, and its digital edition has over 46,300 opt-in subscribers, that [redacted] circulates 6,500 copies in Portugal and 4,200 copies in Europe and the rest of the world, and that [redacted]com had 12.6 million total visits in June, 2024. This evidence clearly showed favorable coverage or publication of the Beneficiary's work in major media or trade journal.

Although the Petitioner supported the record with media kits from the publications and website traffic information, the Petitioner did not demonstrate the significance or relevance of the figures and statistics to show the major status of the publications. For instance, the Petitioner did not establish that the 29,000 website traffic, 30,000 page views, 50,000 total impressions, or 25,000 email subscribers for d5mag.com or that 50,000 subscribers or 46,300 opt-in subscribers for hospitalitydesign.com shows the major standing of the website. Similarly, the Petitioner did not demonstrate that circulation rates of 6,500 copies in Portugal and 4,200 copies in Europe and the rest of the world for [redacted] qualifies as a major publication. Moreover, the Petitioner did not establish the importance of 12.6 million total visits for china.com, factoring in the total population of China. Here, simply providing circulation or traffic numbers is insufficient to establish that the Beneficiary achieved national or international recognition without showing the relevance of those figures.

[12] *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).
[13] *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(2).
[14] *Id.*

Accordingly, the Petitioner did not demonstrate the Beneficiary fulfills this criterion.

III. CONCLUSION

The Petitioner did not establish the Beneficiary meets any additional criteria discussed above. Although the Petitioner claims the Beneficiary's eligibility under 8 C.F.R. § 214.2(o)(3)(iv)(B)(*3*), we need not address this ground, as well as the favorable finding of SCOPS for 8 C.F.R. § 214.2(o)(3)(iv)(B)(*5*), because the Beneficiary cannot fulfill the initial evidentiary requirement of at least three criteria. We also need not provide a totality determination to establish whether the Beneficiary has sustained national or international acclaim, has received a high level of achievement, and has been recognized as being prominent, renowned, leading, or well-known in the field of arts. *See* section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii) and (iv).[15] Accordingly, we reserve these issues.[16] Consequently, the Petitioner has not demonstrated the Beneficiary's eligibility for the O-1 visa classification as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

[15] *See also generally* 2 *USCIS Policy Manual*, *supra*, at M.4(D)(4).
[16] *See INS v. Bagamasbad*, 429 U.S. at 25.