U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42250417

Date: MAY 14, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a competitive swimmer, 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 the record did not establish that the Petitioner had a major, internationally recognized award, nor did it demonstrate that he met at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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 dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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 international 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 criteria

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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to the individual's occupation.

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 (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 is a competitive swimmer who was previously on the Polish National and [redacted] swimming teams. Because the Petitioner has not indicated or established that he 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 determined the Petitioner satisfies two of the ten criteria listed in the regulations, relating to published materials and performing in a leading or critical role. On appeal, the Petitioner asserts he meets the evidentiary criteria relating to awards and membership and that he is eligible for classification as an individual of extraordinary ability. For the reasons discussed below, the Petitioner does not demonstrate he meets at least three of the ten criteria of evidence.[1]

A. Awards

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

SCOPS determined that the Petitioner did not satisfy this criterion. However, upon review, we conclude the record contains sufficient documentary evidence to establish that the Petitioner received nationally and internationally recognized awards from competitive swimming events, and SCOPS' determination on this issue will be withdrawn. For example, the Petitioner provided documentation showing that he earned first, second, and third place medals in multiple events at Polish National Championships. On appeal, the Petitioner contends that the "hierarchy of competitive swimming places National Championship medals at the apex of domestic recognition." Further, the record contains evidence that the Polish National Swimming Championship is a designated World Aquatics

[1] While we do not discuss each piece of evidence individually, we have reviewed and considered the record in its entirety.

qualifying event for the Olympic Games and World Championships and therefore is a nationally and internationally recognized prize.

Therefore, the Petitioner has established that he meets this criterion, and we withdraw SCOPS' conclusion to the contrary.

B. Memberships

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for "documentation of the alien's membership in associations in the field for which classification is sought." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained outstanding achievements in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

The Petitioner asserts that he meets this criterion as a member of the Polish National Swimming Team. Being a member of a national team may demonstrate eligibility for this criterion, as such teams typically limit their number of members and have a rigorous selection process. However, it is the Petitioner's burden to demonstrate that he meets every element of a given criterion. Specifically, the record does not contain sufficient information to establish his outstanding achievements were judged by recognized national or international experts in his field. The Petitioner submitted a letter from [redacted]. The author states that she is "entrusted with oversight, selection, and governance of Poland's national swimming teams." In describing the selection process, the author states that "[a]fter a thorough evaluation, our Executive Bureau. . . determined that [the Petitioner] exceeded all national qualification requirements and merited selection to represent Poland at major international competitions. . . ." Although the record includes information about the author and she indicates she is a member of the "Executive Bureau," the record does not include sufficient supporting evidence addressing her specific role in the selection process and who the other members of the "Executive Bureau" are in order for us to determine if they are recognized national or international experts in the field. We therefore conclude that the Petitioner has not satisfied this criterion.

C. Published Materials

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought." These materials must include "the title, date, and author of the material, and any necessary translation." *Id.* The published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work). Professional or major trade publications may be identified by their intended audience, while other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *See generally 6 USCIS Policy Manual* F.2(B)(1).

The Petitioner submitted four articles in support of meeting this criterion. The first is a brief introduction to an interview with the Petitioner on a sports show on [redacted] The brief summary

of the interview includes an introduction to competitions the Petitioner won along with a description of the subject of the interview covering the Petitioner's "aspirations regarding the Olympic Games" as well as upcoming competitions. However, the record does not include a transcript of the interview in order for us to determine that the interview sufficiently covered the Petitioner and his work in the field, rather than the general description and assertions of what the interview covered. *Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *4 (N.D. Tex. June 17, 2025) (upholding plaintiff's submission of an article reflecting generalized assertions did not provide specific information about his work in the field).

Further, the other three articles show competition results where the Petitioner is briefly mentioned in a sentence or two or his name appears in the results of the competition. For example, in one article, the only mention of the Petitioner is in the sentence, '[redacted] . .also swam in the final." While the two other articles cover competitions he participated in while at [redacted] and list him as a member of the relay team, report the competition results, and state that he was a sophomore at the time of publication. Here, articles with the Petitioner's name listed in passing with the results of a competition do not equate to published material about the Petitioner to satisfy this criterion. *Javakhadze v. Mayorkas*, No. 3:21-CV-00617-E, 2023 WL 8037730, at *6 (N.D. Tex. Nov. 20, 2023) (upholding USCIS' determination that the published materials discussed the outcomes of various competitions, mentioning the plaintiff in passing as it related to competition results). We conclude that the publications in the record do not provide sufficient information about the Petitioner and his work in order to meet this criterion.

Therefore, we withdraw SCOPS' finding that the Petitioner satisfied this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten lesser criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that he is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, --- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve reaching a determination on any additional criterion and any final merits determination in this matter. *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).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.