U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42911768

Date: MAY 18, 2026

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a sculptor, 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.

SCOPS denied the petition, concluding that the Petitioner did not meet the initial evidence requirements for the classification by establishing her receipt of a major, internationally recognized award or by demonstrating that she meets at least three of the ten initial evidentiary criteria. 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

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens who have 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; seek to enter the United States to continue work in the area of extraordinary ability, and whose entry will substantially benefit 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). Alternatively, a petitioner can provide evidence 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).

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 earned a Master of Fine Arts in sculpture from a Korean university and has over 20 years of experience as a sculptor and installation artist.

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must demonstrate that she satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner initially claimed that she could meet five criteria: receipt of nationally recognized awards or prizes; membership in associations that require outstanding achievements; published materials about her and her work in professional publications and major media; original artistic contributions of major significance; and display of her work at artistic exhibitions or showcases. *See* 8 C.F.R. § 204.5(h)(3)(i)-(iii), (v) and (vii).

SCOPS determined that Petitioner provided evidence of the display of her work at artistic exhibitions or showcases and thus satisfied the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(vii). The record supports the Director's conclusion that the Petitioner, whose artistic work has appeared in many group and solo exhibitions, satisfies this criterion.

On appeal, the Petitioner contends that SCOPS' decision mischaracterizes the record by failing to acknowledge or meaningfully analyze most of the evidence she submitted in support of the petition and in response to a request for evidence (RFE). She maintains that the evidence was sufficient to demonstrate that she has received nationally recognized awards or prizes for excellence, has been featured in professional publications and major media, and has made original contributions of major significance in her field.

Upon review, we agree that SCOPS' determinations with respect to the criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii) and (v) were conclusory and did not adequately address the Petitioner's specific claims and evidence. When denying a petition, SCOPS is required to explain the specific reasons for denial. 8 C.F.R. § 103.3(a)(1)(i). This explanation should be sufficient to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *Cf., Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding at a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, as further explained below, SCOPS' decision did not satisfy this requirement.

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 acknowledged that the Petitioner "provided several awards" and "evidence about the awards from the issuing organizations," but ultimately concluded the record contained "no objective evidence about the awards or prizes." On appeal, the Petitioner emphasizes that she initially presented evidence related to 15 awards, provided a consolidated list of ten awards in response to the RFE, and specifically highlighted in her RFE response the four awards she considered most probative of her eligibility under the criterion at 8 C.F.R. § 204.5(h)(3)(i), specifically, those she received at the 35th Korea Art Exhibition, the 25th Korea Contemporary Art Grand Exhibition, the World Light Expo Competition and the Oita Asia Sculpture Exhibition. We agree with the Petitioner that it is difficult to discern what evidence SCOPS ultimately considered in its evaluation of this criterion, because the stated reasons for denial contain no references to the specific claims and supporting documentation the Petitioner provided, particularly with respect to her RFE response.

SCOPS' decision reflects a similarly conclusory treatment of the evidence submitted in support of the criterion at 8 C.F.R. § 204.5(h)(3)(iii), which 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."

SCOPS acknowledged the Petitioner's submission of "several articles in publications such as Monthly Art Magazine, Yonhap News, and broadcast media." SCOPS determined that the Petitioner did not meet this criterion because "the evidence does not demonstrate the publications qualify as a professional or major trade publication or other major media." On appeal, the Petitioner emphasized that she provided evidence of 28 published articles and television appearances in support of this criterion, as well as a brief, submitted in response to the RFE, which highlighted the relevance of her three Korean television appearances and six of the previously submitted articles, including those published by [redacted] *News* and [redacted] *News*, [redacted] and [redacted]. As with the awards criterion, SCOPS' stated reasons for denial contained few references to the Petitioner's specific claims and evidence and therefore did not explain why none of the submitted materials were sufficient to demonstrate eligibility under this criterion.

Finally, to meet the criterion at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must submit "[e]vidence of the alien's original scientific, scholarly, artistic, athletic or business-related contributions of major significance in the field." SCOPS acknowledged that the Petitioner provided "letters of support" and "publications about the [Petitioner's] work" in support of this criterion but concluded without specific reference to this evidence that the record "does not demonstrate the major significance" of her original contributions. On appeal, the Petitioner asserts that SCOPS did not acknowledge the specific contributions she identified in the record or the evidence she submitted to demonstrate their significance. She emphasizes that the evidence she submitted in support of this criterion included not only 15 reference letters from experts and published materials about her work, but also evidence that her artistic work has been funded through grants and artist residencies and is "preserved by national museums, used by

curators to shape exhibitions, referenced by emerging artists and recognized internationally by critics and cultural institutions."

SCOPS did not acknowledge the Petitioner's submission of evidence in support of this criterion beyond making general references to "letters of support" and "published materials" and did not specifically address the content of the published articles or any of the many letters submitted as expert testimony. Instead, the decision reaches a conclusory determination that the letters "do not provide specific examples of how the beneficiary's methods or techniques have influenced the work of other artists or otherwise equate to original contributions of major significance in the field." Detailed letters from experts in the field explaining the nature and significance of the person's contributions may provide valuable context for evaluating claims regarding original contributions of major significance. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Here, SCOPS offered an inadequate explanation as to why it found the letters to be lacking in probative value.

While SCOPS is not required to provide a detailed discussion of every piece of evidence the Petitioner submitted, the decision here was too general to convey that it was based on a reasoned consideration of all relevant evidence in the record and did not adequately explain the specific reasons for denial. Accordingly, SCOPS' decision is withdrawn, and the matter will be remanded to SCOPS to re-evaluate the evidence submitted under the criteria at 8 C.F.R. § 204.5(h)(3)(i), (iii) and (v) and to issue a new decision. In its review, SCOPS should also consider the Petitioner's appellate brief and additional evidence submitted on appeal.

If, after further review on remand, SCOPS determines that the Petitioner satisfies three criteria, the new decision should include a final merits determination evaluating whether she has demonstrated, by a preponderance of the evidence, her sustained national or international claim, that she is one of the small percentage at the very top of her field of endeavor, and that her achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

III. CONCLUSION

While the evidence of record may ultimately be insufficient to demonstrate the Petitioner's eligibility for the requested classification, SCOPS' decision did not adequately address the submitted evidence or adequately explain the specific reasons for denying the petition. Accordingly, we will withdraw SCOPS' decision and remand the matter for entry of a new decision.

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