U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37869497

Date: MAY 22, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a martial artist, 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 although the record established that the Petitioner satisfied the initial evidentiary requirements, it did not establish, as required, that the Petitioner has sustained national or international acclaim and is an alien in the small percentage at the very top of the field. The matter is now before us on appeal under 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 aliens 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. A petitioner must establish that these aliens seek to enter the United States to continue work in the area of extraordinary ability, and that their entry into the United States will substantially benefit the United States. 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." 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 an alien's achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit 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. If those

standards do not readily apply to the alien's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we assess whether the record shows sustained national or international acclaim and demonstrates that the alien 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, born in 1995, competed in kickboxing and other martial arts in his native Uzbekistan between 2008 and 2017, eventually joining that country's national team and winning both national and world championship titles. He later entered the United States and competed at a national championship competition in Delaware in 2018. A letter from a martial arts center in [redacted] indicates that the Beneficiary "became [a] full-time athlete" there in May 2018, and the record indicates that the Petitioner has spent most of his time since then in the United States.[1] The Petitioner seeks to open a training academy and to establish a brand of kickboxing equipment.

The Petitioner does not claim to have received a major, internationally recognized award. He claims to have satisfied six of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x), summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the alien in professional or major media;
- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance; and
- (viii), Leading or critical role for distinguished organizations or establishments.

SCOPS concluded that the Petitioner had satisfied four of the claimed criteria, pertaining to awards, memberships, judging, and leading or critical roles. On appeal, the Petitioner asserts that SCOPS should have also granted the criteria relating to published material and original contributions. Because SCOPS had already granted the minimum of three criteria, detailed discussion of the other claimed criteria cannot change the outcome of this appeal. Therefore, we reserve these two remaining criteria.[2]

SCOPS then undertook a final merits determination, concluding that while the Petitioner had documented significant achievements and recognition as an athlete, he "had not provided any record

[1] When asked, on Part 4, line 8 of Form I-140, whether any immigrant visa petition had ever been filed by the Petitioner or on his behalf, the Petitioner answered "no." But his initial filing included copies of receipts identifying prior filings.

[2] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *see also Matter of M-S-I-*, 29 I&N Dec. 61, 65 (BIA 2025) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

of major victories or acclaim after 2018," resulting in "a gap of multiple years" before the petition's August 2023 filing date. As explained below, we agree with SCOPS' conclusion.

In a statement submitted with the petition, the Petitioner indicated that he joined [redacted] in 2013, and that "[f]rom 2012 to 2017, [he] was an undefeated national champion in the [redacted]." The Petitioner also claimed to have coached the [redacted] since 2016. The most recent event mentioned in the Petitioner's undated statement is a competition in 2018.

The Petitioner's evidence included the following:

- A letter from the [redacted] dated November 2018, indicating that the Petitioner had been a member of the team since 2013;
- Documentation of participation in martial arts competitions between 2008 and 2018;
- Copies of articles about the Petitioner, or about competitions in which he had participated, published between 2012 and 2017; and
- A 2019 letter from the [redacted] detailing the Petitioner's participation as a judge at competitions between 2014 and 2017.

The Petitioner also stated that "since 2015, [he] has been playing a leading and critical role in the [redacted]" and that he coached other athletes to first or second place championship titles in 2017. The Petitioner did not, however, establish that he continued to compete for that team and coach other championship-level athletes at the time he filed the petition in 2023. As noted above, the letter attesting to his membership on the national team dates from 2018, and therefore that letter is not evidence of his membership after that date, and a U.S. club claimed the Petitioner as a "full-time athlete" in [redacted] beginning in 2018.

The Petitioner has shown that he has competed at a high level, but the evidence of such competition stops several years before the petition's filing date. Furthermore, he submitted copies of certificates relating to his earlier competitions, but for more recent events, he relied heavily on letters and on articles published years after the fact. The Petitioner did not explain why he submitted less first-hand documentation for more recent events.

The relative lack of first-hand documentary evidence is of particular concern with respect to his claim to have won "1st place at the [redacted] Delaware" in 2018. The Petitioner did not submit any documentary evidence that he won this competition. He submitted a web printout showing some of the official results from the 2018 [redacted] That printout indicates that he placed second in his weight and age class. The individual who competed against him is ranked among the "Top 10 Individuals" who competed in the tournament, having won two gold medals, and no silver or bronze medals.

This discrepancy may lead us to reevaluate the reliability and sufficiency of other evidence in the record. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). This is significant because the Petitioner has not submitted documentation to support claims that he won several other competitions.

Most of the evidence submitted in support of the petition dates from 2018 or earlier. An exception is an April 2023 letter from the president of the [redacted] That letter discusses the Petitioner's activity in Uzbekistan between 2012 and 2017, and four competitions in the United States between 2018 and 2020.

The Petitioner submitted an exhibit said to include "[i]nformation about [his] upcoming kickboxing championships." The submitted materials consisted of promotional fliers for competitions that took place in 2018 and 2019, several years before the Petitioner filed the petition in August 2023. All these competitions took place in New York, and the materials indicate that the Petitioner was competing on behalf of a club in [redacted] rather than the [redacted]. The most recent materials in the record do not point to continued activity in Uzbekistan or on behalf of its national team.

SCOPS issued a request for evidence (RFE) in August 2024, stating:

> In the current case, evidence establishes that the beneficiary has been competing at a high level in kickboxing tournaments since he was a teenager. However, evidence submitted fails to show the receipt of any acclaimed national or international awards after 2018, and the current petition was filed in 2023. This five year lapse makes it unreasonable to conclude that any national or international acclaim received by the beneficiary has been sustained and maintained.

In response, the Petitioner again pointed to his activities in 2018 and earlier, and asserted that his participation in competitions in 2012 and 2015 "confirm his sustained expertise and reputation as a leading martial artist globally." The Petitioner repeated the claim that "[s]ince 2016, he has served as the coach of the [redacted]' but he submitted no evidence to show that he still held that position and coached members of that team when he responded to the RFE. As noted above, government travel information that the Petitioner submitted with his petition indicates that he has spent most of his time in the United States since 2018.

The Petitioner submitted a "Strategic Business Plan," which includes claims that he won several competitions in New York between 2018 and 2020. The Petitioner did not submit first-hand documentary evidence, such as certificates from the entities that held the tournaments, to confirm that he won those competitions. Promotional fliers announcing the events were published before the competitions occurred, and therefore they confirm only that he was scheduled to compete. The Petitioner did not claim to have competed after 2020. The business plan also referred to the Petitioner's coaching work in Uzbekistan, but provided no details about any coaching work he has performed since 2018.

The plan also discussed, in general terms, the Petitioner's intentions regarding training centers and sports equipment. The plan stated in the past tense that the Petitioner "established a substantial market share and strengthened his position in the combat sports equipment industry," but other passages indicate that he seeks to "creat[e] a line of combat sports equipment" "[w]ithin the next year or year and a half." The record contains no documentary evidence to show that he has already created and sold such equipment, or that he has earned sustained national or international acclaim for doing so. The business plan cited no references to corroborate the claims it contains.

The Petitioner's response to the RFE included some articles published in 2024, after the petition's filing date and, in many cases, after the RFE was issued. None of the articles identifies any competition in which the Petitioner participated after 2020. The record does not establish the circumstances under which the articles were published; none of the articles refers to any recent developments that would have attracted media attention. This issue takes on greater significance because of similarities between some of the recently published articles. For instance, an article from [redacted] reads, in part:

> In 2012, [the Petitioner] achieved a significant milestone when he was crowned [redacted] . . .
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> . . . .
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> [The Petitioner's] approach to life and sport is also shaped by his admiration for Muhammad Ali, the legendary boxer known for his courage, charisma, and ability to inspire. . . .
>
> . . . .
>
> One of his biggest goals is to compete at the 2028 [redacted] a stage he sees as the ultimate test of his abilities. Competing at the [redacted] would be a crowning achievement in his career and a chance to showcase the sport of kickboxing on a global platform.

Similar passages appear in an article from [redacted]

> Another significant milestone was his participation in the [redacted] in 2012, where he claimed the title of world champion in Portugal. . . .
>
> . . . .
>
> . . . One of his heroes is Muhammad Ali, the legendary boxer whose charisma, dedication, and success have inspired millions.
>
> . . . .
>
> His ultimate goal is to compete in the 2028 [redacted] representing his country on the global stage.

These similarities appear to suggest an unidentified common source for the articles, and the timing of the articles' publication while the petition was pending raises questions. If the Petitioner paid or arranged for the articles to be published, then the articles have substantially less weight. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual (stating that marketing or promotional materials are not generally considered to be published material about the person).

SCOPS denied the petition, citing the "gap of multiple years" in the Petitioner's recognition and stating that the Petitioner's response to the RFE "does not address this gap in any substantive way."

On appeal, the Petitioner protests that the regulations do not establish "a two-part analysis" to establish extraordinary ability. The Petitioner cites *Buletini v. INS*, 860 F. Supp. 1222 (E.D. Mich. 1994), a district court decision that has no precedential authority. We note that the court cited *Buletini* in the *Kazarian* decision. *See Kazarian v. USCIS*, 596 F.3d at 1121. The Petitioner cites no binding authority that has retracted, reversed, or modified the reasoning outlined in the court's decision in *Kazarian*.

The Petitioner also asserts that, within the framework established in *Kazarian*, "the . . . petition should have been approved . . . , as the beneficiary has established . . . substantial international acclaim." The Petitioner contends that he "has strong chances of continued important victories in this athletic field." The Petitioner also contends that SCOPS failed "to consider comparable evidence that demonstrates extraordinary ability." These are all general assertions, which the Petitioner does not develop or support with specific claims and details.[3]

The Petitioner does not address SCOPS' key determination that the evidence of the Petitioner's achievements stops several years before the petition's August 2023 filing date. The Petitioner documented various athletic achievements abroad up to 2018, and presented unsubstantiated claims of additional successes in the United States between 2018 and 2020, but this information would not establish *sustained* acclaim as of the filing date even if the Petitioner had fully corroborated those claims. The regulatory definition of "extraordinary ability" at 8 C.F.R. § 204.5(h)(2), which the Petitioner quotes on appeal, requires that the beneficiary of such a petition "*is*," rather than "was," "one of that small percentage who have risen to the very top of the field of endeavor." The Petitioner must meet all eligibility requirements at the time of filing the petition. 8 C.F.R. § 103.2(b)(1).

For the reasons explained above, we agree with SCOPS that the Petitioner has not shown that, since 2018, he has sustained whatever level of acclaim he may have previously reached in Uzbekistan.

SCOPS also noted that the Petitioner's "plans appear to involve a bit of kickboxing, a bit of coaching, and a bit of business." Section 203(b)(1)(A)(ii) requires the Petitioner to continue work in the area of extraordinary ability, and 8 C.F.R. § 204.5(h)(5) requires the Petitioner to continue work in the area of expertise. The record does not show that the Petitioner has competed since 2020, and the record appears to contain only anecdotal evidence of recent coaching activity. The Petitioner has not established extraordinary ability, expertise, or any experience at all in the establishment and operation of training academies or the development of sports equipment.

III. CONCLUSION

Having reviewed the record in the aggregate, we conclude that it does not show that the Petitioner has established the sustained acclaim and recognition required for the classification he seeks.

The Petitioner seeks a highly restrictive visa classification, intended for individuals currently at the top of their respective fields. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for

[3] At times, the appellate brief refers to "Boxing" and "Sambo," both martial arts in which the Petitioner had not previously claimed to have achieved national or international acclaim.

classification as an individual of "extraordinary ability,"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design"); *Hamal v. Dep't of Homeland Sec.*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"); *see also Hamal v. Dep't of Homeland Sec.*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian,* 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach).

The Petitioner has not shown that he has sustained a degree of recognition of his work that rises to the level of national or international acclaim and demonstrates a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner is one of the small percentage who has risen to, and remains, the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). By submitting documentation showing that he lost a 2018 competition that he claims to have won, the Petitioner has raised serious questions about the overall credibility of the assertions in the record.

The Petitioner has not demonstrated eligibility as an alien of extraordinary ability. We will therefore dismiss the appeal.

ORDER: The appeal is dismissed.