U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38048486

Date: MAY 28, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a professional soccer player, 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 record did not establish that the Petitioner had either received a major, internationally recognized award or satisfied at least three of ten initial evidentiary criteria, as required. 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 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 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 1991, has played professionally as a center forward for clubs in Brazil and Europe, most notably for the Brazilian club [redacted] from 2017 to 2022, a period that included loans to two other teams, and afterward for [redacted] Materials submitted after the petition's August 2024 filing date indicate that the Petitioner went on to play for [redacted]

Because the Petitioner has not indicated or shown 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). The Petitioner claims to have satisfied five of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the alien in professional or major media;
- (v), Original contributions of major significance;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services.

SCOPS concluded that the Petitioner met two of the claimed criteria, pertaining to awards and published material. On appeal, the Petitioner maintains that he meets the other three claimed criteria.

Upon review of the record, we will not disturb SCOPS' conclusions regarding prizes or awards and published material. We will discuss the other claimed criteria below.

1. Original Contributions

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. When evaluating evidence under this criterion, we first determine whether the alien has made original contributions in the field. We then determine whether the original contributions are of major significance to the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

The Petitioner claimed that the winning goals he scored at [redacted] in 2018 and [redacted] in 2021 are original contributions of major significance. In denying the petition, SCOPS acknowledged that the Petitioner's achievements helped his team, but concluded that

the Petitioner had not shown that these actions constitute original contributions of major significance in professional soccer.

On appeal, the Petitioner asserts: "A score/goal that occurs in a championship final is an exceptionally rare event in sports, and even more so when it . . . directly influences the outcome of the match and the tournament." The importance of particular goals to the outcome of individual competitions does not address the crucial issue of originality. The Petitioner has not adequately explained how the circumstances and timing of a particular goal qualify that goal as an original contribution. As such, the Petitioner has not satisfied a core requirement of 8 C.F.R. § 204.5(h)(3)(v), and we need not address the separate question of whether a winning goal is of major significance in the field of professional soccer, as opposed to the outcome of one league's championship.

We agree with SCOPS that the Petitioner has not satisfied the requirements of this criterion.

2. High Salary

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for evidence that the alien has commanded a high salary or other significantly high remuneration for services in relation to others in the field.

The Petitioner submitted copies of various contracts from different points in his career. As a basis for comparison to show his remuneration in relation to others in the field, the Petitioner submitted figures from the [redacted] dating from 2015. These figures do not readily apply in this case, because the Petitioner played for a team in Spain, not Brazil, in 2015. He submitted more recent figures relating to his remuneration in Brazil, but did not establish that the figures from 2015 accurately reflect salary distributions in later years.

We agree with SCOPS that the Petitioner has not met his burden of proof with regard to this criterion.

3. Leading or Critical Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. For a critical role, we look at whether the evidence establishes that the alien has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner asserted that he "plays a critical role as [the] top scorer" for [redacted] "one of the most successful soccer clubs in Brazil." The Petitioner submitted letters from current and former teammates, attesting that he has played a critical role in securing important wins for his teams.

SCOPS concluded that the letters lack specificity and corroboration. But published articles in the record support claims about the Petitioner's record as a high scorer. For example, an article in [redacted] indicated that Petitioner "became [redacted] top scorer in a single edition of the [2023] [redacted]" The same article indicated that the Petitioner was also "the team's top

scorer in the competition [in 2022] with [redacted]." Other articles discussed the Petitioner's goal that won the 2021 championship for his team.

We conclude that the Petitioner has established that his consistently high scoring record has significant importance to the outcome of his soccer team's activities. The Petitioner has also established that he has played for top-level teams. As such, we conclude that the Petitioner has shown, by a preponderance of the evidence, that he performed in a critical role for teams with distinguished reputations.

As discussed above, we conclude that the Petitioner submitted the required initial evidence to satisfy three of the criteria at 8 C.F.R. § 204.5(h)(3). The next step is to determine 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. A final merits determination involves analyzing an alien's accomplishments and weighing the totality of the evidence to determine if their successes are sufficient to demonstrate extraordinary ability in the field of endeavor. *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, *and see generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2).

We will remand the matter in order for SCOPS to make a final merits determination. In doing so, SCOPS must bear in mind that the determination involves consideration of the totality of the record, rather than simply re-evaluating the evidence submitted regarding the individual underlying criteria. SCOPS must determine whether the record as a whole shows that the Petitioner has achieved sustained national or international acclaim.

Also, a petitioner must establish eligibility at the time of filing the petition, and must continue to be eligible throughout the adjudication of the petition. 8 C.F.R. § 103.2(b)(1). Therefore, in the event that SCOPS determines that the Petitioner was eligible at the time of filing, it is appropriate for SCOPS to consider evidence from after the filing date in order to determine whether the Petitioner has continued to sustain the national or international acclaim that the statute and regulations require. SCOPS may choose to request further evidence to aid in such a determination.

III. CONCLUSION

We will remand the matter to SCOPS for a final merits determination.

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