U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39965876

Date: NOV. 19, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an athlete, seeks classification as an individual 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 that the record did not establish that the Petitioner received a major, internationally recognized award or met the requirements of at least three of the ten 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 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 the 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, a native and citizen of Brazil, is an athlete who competes in the sport of jiu-jitsu. SCOPS determined that the Petitioner met the criteria relating to receipt of a lesser nationally or internationally recognized award under 8 C.F.R. § 204.5(h)(3)(i) and published material about the Petitioner and her work in professional publications or major media under 8 C.F.R. § 204.5(h)(3)(iii). We agree with SCOPS' determinations regarding these criteria.

SCOPS further concluded that the Petitioner did not meet the criterion relating to having performed in a leading or critical role for an organization or establishment that has a distinguished reputation, per 8 C.F.R. § 204.5(h)(3)(viii). The Petitioner contends that she has held a leading and critical role in [redacted] the jiu-jitsu team for which she competes in the United States and internationally, and that [redacted] has a distinguished reputation as a highly ranked team among worldwide jiu-jitsu competitors. In the denial, SCOPS acknowledged two letters of support the Petitioner submitted from individuals with personal knowledge of her achievements as a competitive member of the [redacted] team. However, SCOPS stated that testimonial letters alone are insufficient to show that a petitioner meets the requirements of this criterion.

As the Petitioner notes on appeal, the U.S. Citizenship and Immigration Services (USCIS) Policy Manual advises that "[t]his is one criterion where letters from persons with personal knowledge of the significance of the person's leading or critical role can be particularly helpful to officers in making this determination, so long as the letters contain detailed and probative information that specifically addresses how the person's role for the organization . . . was leading or critical." *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. SCOPS stated generally that letters are not sufficient but did not provide any analysis specific to the evidence the Petitioner provided. Therefore, SCOPS did not adequately explain the reasons for denial of the petition. An officer must fully explain the reasons for denying a visa petition to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *See* 8 C.F.R. § 103.3(a)(1)(i); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Furthermore, SCOPS failed to acknowledge other evidence

the Petitioner provided regarding this criterion, including a news article, another supporting letter, and information about [redacted] and its history and ranking. Accordingly, we will withdraw the decision and remand the matter to SCOPS for a complete review of the relevant evidence and entry of a new decision that provides a full analysis regarding whether the Petitioner has met this criterion.

Additionally, SCOPS stated in the first paragraph of the denial's conclusion that the Petitioner had not met at least three criteria but wrote in the second paragraph that she "has submitted evidence to demonstrate the beneficiary has met at least 3 of the 10 regulatory criteria . . . ." SCOPS then indicated that a final merits determination was warranted but did not conduct such a determination. For the reasons discussed above, SCOPS shall issue a new decision that evaluates the evidence submitted in support of the criterion at 8 C.F.R. § 204.5(h)(3)(viii).[1] If after review SCOPS determines that the Petitioner satisfies at least three criteria, the new decision should include an analysis of the totality of the record evaluating whether she has demonstrated, by a preponderance of the evidence, sustained national or international acclaim and whether the record demonstrates that she is one of the small percentage at the very top of the 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.[2]

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

[1] For the first time on appeal, the Petitioner contends that she also meets the criterion at 8 C.F.R. § 204.5(h)(3)(ii) relating to documentation of her membership in associations in the field for which classification is sought. As the Petitioner did not make this claim or present supporting documentation to SCOPS in her initial filing or in response to a request for evidence, we will not consider this additional claim and supporting evidence on appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (providing that if "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial, we will not consider evidence submitted on appeal for any purpose" and that "we will adjudicate the appeal based on the record of proceedings" before SCOPS); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).

[2] During our adjudication of the Petitioner's appeal, we issued a notice of intent to dismiss (NOID) because the Petitioner's signature on the Form I-290B appears to be created by autopen or similar electronic device. We notified the Petitioner that her Form I-290B therefore lacked the required signature per 8 C.F.R. §§ 103.2(a)(2) and 103.3(a)(1)(iii)(B). The Petitioner replied to the NOID with a brief and a new copy of the Form I-290B. However, the evidence she submitted is insufficient to show that her signature on the Form I-290B she originally filed was valid. The signature issue remains unresolved.