U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39716032

Date: OCT. 06, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a dance education entrepreneur, 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 aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id.*

SCOPS denied the petition, concluding that the record did not establish, as required, that the Petitioner met three of the initial ten evidentiary criteria for this classification 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 visas available to immigrants with extraordinary ability if:

> (i) the alien has 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,
>
> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
>
> (iii) the alien'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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 documentation that meets at least three of the ten categories 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 material if he or she is 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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. at 376.

II. ANALYSIS

The Petitioner, a native of Romania and citizen of Canada, is a dance educator focused on the development of ballroom dance curricula for persons with disabilities. She is currently residing in [redacted] Ohio.[1] She indicates that she intends to continue to work in this role in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she 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 met four criteria relating to participation as a judge of the work of others in the field, original contributions of major significance, display of her work in the field at artistic exhibitions, and performing a leading or critical role, under 8 C.F.R. § 204.5(h)(3)(ii),(v),(vii), and (viii), respectively.

SCOPS determined that the Petitioner had not indicated or established that she has received a major, internationally recognized award or satisfied any of the four claimed initial evidentiary requirements. SCOPS therefore concluded that the Petitioner did not satisfy the classification's initial evidentiary requirements under 8 C.F.R. § 204.5(h)(3).

[1] USCIS records indicate that the Petitioner was granted O-1A nonimmigrant status in July 2025 during the pendency of this appeal.

On appeal, the Petitioner does not contest SCOPS' finding that she did not meet the claimed criterion relating to judging the work of others in the field. We therefore deem the matter waived and will not discuss it in the analysis. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (waiving an argument that was mentioned but not developed).

However, the Petitioner does argue on appeal that she satisfies the remaining three claimed criteria relating to original contributions of major significance, display of her work in the field at artistic exhibitions, and performing a leading or critical role under 8 C.F.R. § 204.5(h)(3)(v),(vii), and (viii), respectively.

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." In evaluating whether the Petitioner meets this criterion, we first determine if they have performed in a leading or critical role for an organization, establishment, or a division or department of an organization.[2] *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.dhs.gov/policy-manual.

Regarding her performance of a leading or critical role, the Petitioner contends on appeal that SCOPS "narrowly construed" and misapplied this criterion in the context of DanceSport (competitive ballroom dancing) in part because "[t]he regulation explicitly allows for individuals in the arts and athletics to qualify based on meaningful contributions to smaller or specialized organizations, including specific divisions, departments, or competitions."[3] However, upon review, SCOPS' analysis considered evidence in the record relating to such contributions.

The Petitioner further argues on appeal that she performed in a leading or critical role for numerous organizations, including the [redacted] She provided recommendation letters in the record below in support of this contention. However, these letters are not sufficient to demonstrate that the Petitioner meets this criterion. First, not all of these letters identified whether the Petitioner performed in a leading or critical role for the authors' respective organizations. For example, P-A- and M-V- of the [redacted] do not indicate whether or provide detailed examples demonstrating how the Petitioner performed in a leading or critical role for that organization. Rather, the authors state generally that the Petitioner has "changed the ballroom dancing industry in Canada by bringing inclusiveness to our community." Letters from persons with personal knowledge of the significance of the petitioner'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 their role for the organization, establishment, division, or department was leading or critical. Here, these letters do not contain such detailed and probative information or otherwise explain or show how the Petitioner's role for these organizations was leading or critical.

[2] For a leading role, we look at whether the evidence establishes that the person is (or was) a leader within the organization or establishment or a division or department thereof. A title, with appropriate matching duties, can help to establish that a role is (or was), in fact, leading. 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

[3] In support of this assertion the Petitioner cites to the appendix of 6 *USCIS Policy Manual*, *supra,* at F.2. However, we note that 6 *USCIS Policy Manual*, *supra,* at F.2 does not have an appendix.

Regarding the Petitioner's performance in a leading role, we note that other letters in the record identify the Petitioner's title and duties for the authors' organizations. For instance, S-R-, organizer of the [redacted] explains that as [redacted] program director, the Petitioner introduced her new curriculum through her students' dance performance at the [redacted] thereby expanding inclusiveness in ballroom dancing. Similarly, A-C-, representing the [redacted] and [redacted], describes the Petitioner's duties as an assistant coach and assistant director for these organizations. However, the Petitioner did not offer evidence, such as organization charts with matching duties for these titles, or other documentation, to establish that these roles were leading. *See generally* 6 *USCIS Policy Manual*, *supra,* at F.2(B)(1).

Moreover, while these letters assert that the Petitioner contributed to the authors' respective organizations in a manner that was of significant importance to the outcomes of these organizations' activities, they lack detailed probative examples showing or explaining how. For instance, S-R-, explains the importance and impact of her students' dance performance at the [redacted] on expanding inclusiveness in ballroom dancing. However, S-R- does not explain or show, for example, how this contribution was crucial to [redacted] or of significant importance to the outcomes of [redacted] activities. Similarly, A-C-, representing the [redacted], describes how the Petitioner trained and assisted [redacted] instructors in developing dance syllabuses for children and adults with disabilities but does not offer probative detailed examples of how these duties were of importance to [redacted] outcomes or activities. Letters making broad assertions without showing how the Petitioner was crucial to the organizations or explaining how these contributions were of significant importance to the organizations' outcomes are generally not sufficient to establish her critical or leading role. *See, e.g. Chivukula v. Allen*, No. 3:22-CV-0381-S, 2023 WL 4504601, at *5 (N.D. Tex. May 1, 2023).

Further, the Petitioner has not offered sufficient evidence to demonstrate that organizations for which she claims to have performed in a critical role have a distinguished reputation. *See* 8 C.F.R. § 204.5(h)(3)(viii) (requiring evidence that establishes that organizations or establishments for which the alien performed a leading or critical role have a distinguished reputation.).[4] The Petitioner provided screenshots for each of these organizations' websites reflecting background information, the services these organizations provide, and providing a list of staff members and boards of directors. However, the Petitioner did not explain or show how these website materials referencing services or staff members established these organizations' distinguished reputations. *See Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *5 (S.D.N.Y. Mar. 21, 2023) (finding self-promotional material from the organization did not establish a sufficiently high reputation). We note the Petitioner also offered news articles discussing the benefits of [redacted] programs to persons with disabilities. Again, however, the Petitioner does not offer evidence to explain or show how these news articles demonstrate she has performed a leading or critical role for [redacted] or demonstrate that [redacted] has a distinguished reputation.

For the above-stated reasons, the Petitioner has not shown that she meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii) relating to performance in a leading or critical role.

[4] Meriam-Webster's online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person." 6 *USCIS Policy Manual*, *supra,* at F.2(B)(1).

The Petitioner further contends on appeal that she meets the two remaining claimed evidentiary criteria related to original contributions of major significance and display of her work in the field at artistic exhibitions, under 8 C.F.R. § 204.5(h)(3)(v) and (vii). However, as the Petitioner has not established that she meets one of three claimed criteria, she necessarily cannot establish that she meets a total of three of the initial ten evidentiary criteria under 8 C.F.R. §204.5(h)(3), as required. Therefore, we decline to reach and hereby reserve arguments in this matter concerning these two remaining claimed criteria. *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).

B. Final Merits Determination

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. Because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that she 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 arguments concerning a final merits determination in this matter. *See, e.g. INS v. Bagamasbad*, 429 U.S. at 25.

C. O-1 Status

The record reflects that the Petitioner received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. However, this approval does not preclude USCIS from denying an immigrant visa petition, which is adjudicated based on a different standard – statute, regulations, and case law. *See Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *9 (N.D. Tex. June 17, 2025); *Cuckic v. Jaddou*, No. 21-CV-8395 (JPO), 2023 WL 2586031, at *2; *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025). Many immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Sunlift Int'l, Inc. v. Mayorkas,* No. 20-CV-08869-JCS, 2021 WL 3111627, at *11 (N.D. Cal. July 22, 2021); *Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25, 29-30 (D.D.C. 2003); *IKEA US, Inc. v. U.S. Dep't of Just. INS*, 48 F. Supp. 2d 22, 23 (D.D.C. 1999), *aff'd sub nom. IKEA US, Inc. v. Dep't of Just., INS*, No. 99-5159, 1999 WL 825420 (D.C. Cir. Sept. 27, 1999); *Fedin Bros. Co. v. Sava*, 724 F. Supp. 1103, 1104 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d Cir. 1990). Furthermore, our authority over SCOPS, the office adjudicating nonimmigrant visa petitions, is comparable to the relationship between a court of appeals and a district court. Even if SCOPS has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigrant petition. *See Louisiana Philharmonic Orchestra v. INS*, No. CIV. A. 98-2855, 2000 WL 282785, at *2 (E.D. La. Mar. 15, 2000).

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals at the top of their respective field. *See* 8 C.F.R. § 204.5(h)(2) (explaining "extraordinary ability" refers only to those in "that small percentage who have risen to the very top of the field of endeavor"). USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the record as a whole does not demonstrate a level of recognition that indicates the required sustained national or international acclaim or 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 the very top of the field of endeavor.

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above-stated reasons, with each considered as an independent and alternate basis for the decision.

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.