U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39875442

Date: SEP. 02, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a policy researcher and advisor, 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.

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner had not satisfied any of the initial evidentiary criteria, of which he must meet at least three. 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.

To establish eligibility as an alien of extraordinary ability, a petitioner (or anyone on the petitioner's behalf) must establish that they:

- Have extraordinary ability in the sciences, arts, education, business, or athletics;
- Seek to enter the United States to continue work in their area of extraordinary ability; and that
- Their entry into the United States will prospectively substantially benefit the United States.

Extraordinary ability must be demonstrated by evidence of sustained national or international acclaim as well as extensive documentation that their achievements have been recognized in the field. Section 203(b)(1) of the Act.

The implementing regulation further states that 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." A petitioner can demonstrate that they meet the initial evidence requirements for this immigrant visa classification through evidence of a one-time achievement (that is, a major, internationally recognized

award). If such evidence is unavailable, then they must alternatively provide evidence that meets at least three of the ten listed criteria, which call for evidence about lesser awards they may have received, published material about them in qualifying media, and their authorship of scholarly articles, among other types of evidence. 8 C.F.R. §§ 204.5(h)(2),(3).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination, assessing whether the record shows that the individual possesses the acclaim and recognition required for this highly exclusive immigrant visa classification. *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).

The Petitioner claimed that he satisfied seven of the ten possible evidentiary criteria, relating to lesser nationally or internationally recognized prizes or awards, membership in associations, published material about the Petitioner, original contributions of major significance, performing in a leading or critical role for organizations or establishments that have a distinguished reputation, and high salary or remuneration. We note that the Petitioner's initial evidence did not include his claim of having been invited to judge the work of others, but that he included this claim in response to the SCOPS request for evidence (RFE).

The SCOPS decision, as the Petitioner notes on appeal, does not provide explanations as to why the evidence in the record was not sufficient to meet any of the evidentiary criteria claimed by the Petitioner. For example, in the section discussing the Petitioner's claim of having published material about him and his work, the SCOPS decision stated:

> The petitioner submitted the following evidence:
>
> a) Articles from X.
> b) Financial Times
> c) Development Diaries
>
> First, USCIS determines whether the published material was related to the person and the person's specific work in the field for which classification is sought. The published material should be about the person, relating to the person's work in the field, and not just about the person's employer and the employer's work or about another organization and that organization's work. Marketing materials created for the purpose of selling the person's products or promoting the person's services are not generally considered to be published material about the person (this includes seemingly objective content about the person in major print publications that the person or the person's employer paid for).
>
> As such, the submitted evidence does not meet this criterion.

The Petitioner submitted an extensive number of articles from various outlets, almost all of which the SCOPS decision fails to acknowledge or explain why the articles noted above failed to meet the plain language of the evidentiary criteria. The decision included a similar conclusion regarding the evidence

provided for lesser nationally or internationally recognized prizes or awards and performing in a leading or critical role for organizations or establishments that have a distinguished reputation, listing only a small amount of the provided evidence and not specifically addressing any deficiencies. SCOPS additionally stated that "no submission was made" for the evidentiary criterion for high salary or remuneration; however, a review of the record indicates that although the Petitioner did not provide evidence for this criterion in response to the RFE, the Petitioner had provided evidence with his initial filing. Finally, the Petitioner raised his claim of eligibility for judging the work of others in his field in response to the RFE, which SCOPS does not acknowledge in the decision.

Remanding a matter is appropriate when the decision does not fully explain the reasons for the denial so that the affected party has a fair opportunity to contest the decision and the AAO has an opportunity to conduct a meaningful appellate review. 8 C.F.R. § 103.3(a)(1)(i),(iii) (providing that the director's decision must explain the specific reasons for denial and notify the affected party of appeal rights); *cf. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that the reasons for denying a motion must be clear to allow the affected party a meaningful opportunity to challenge the determination on appeal). The SCOPS decision did not explain, specifically, how the Petitioner's evidence failed to meet each of the evidentiary criteria. As such, we withdraw SCOPS' decision and remand the matter for the 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.