U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39687187

Date: SEPT. 2, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner 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. The matter is now before us on appeal. 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.

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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through 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 sufficient qualifying documentation demonstrating that the individual meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). If an evidentiary

standard under 8 C.F.R. § 204.5(h)(3)(i)–(x) does not "readily apply" to a petitioner's occupation, the petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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 Amin v. Mayorkas*, 24, F.4th 383, 394 (5th Cir. 2022).

The Petitioner seeks to provide operations/technical expertise in the United States as an individual of extraordinary ability. SCOPS noted that the evidence of record did not demonstrate that the Petitioner had received sustained acclaim and recognition for achievements in his field through a one-time achievement. SCOPS further determined, without providing specific detail or analysis, that the Petitioner satisfied three of the initial evidentiary requirements. SCOPS then stated that as the Petitioner met at least three of the ten regulatory criteria, SCOPS would examine the evidence presented to make a final merits determination. However, shortly thereafter in the decision, SCOPS contradicted itself and concluded that as the Petitioner did not satisfy three of the initial evidentiary requirements, a final merits analysis to determine whether the Petitioner had reached a level of expertise indicating that he had received sustained acclaim as one of the small percentage who have risen to the top of his field of endeavor would not be conducted.

On appeal, the Petitioner asserts that SCOPS contradicted their earlier "determination regarding the number of antecedent criteria met by the Petitioner and instead decided that the Petitioner had not met at least three of the ten criteria." The Petitioner further contends that SCOPS' "glaring Error of Fact is material, and the officer's errors as to the facts affected its conclusion of law" and SCOPS' error is "material and clear." The Petitioner maintains on appeal that the evidence submitted was sufficient to establish eligibility as an individual of extraordinary ability.

An officer must fully explain the reasons for denying a visa petition. *See* 8 C.F.R. § 103.3(a)(i). This explanation should be sufficient to allow the Petitioner a fair opportunity to contest the decision and to allow us an opportunity for meaningful appellate review. *C.f. 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). Upon review, we agree that SCOPS' decision did not properly analyze the evidence submitted and did not sufficiently explain the reasons for denial. Therefore, we will withdraw SCOPS' decision and remand the matter to SCOPS for entry of a new decision. On remand, SCOPS should review the entire record, including the documentation submitted in support of the instant appeal, to determine whether the Petitioner has established eligibility for the benefit sought.

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