U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39359218

Date: SEP. 08, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a hip-hop artist, music producer, and model, 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.

SCOPS denied the petition, concluding that while the record established that the Petitioner satisfied three of the ten initial evidentiary criteria, as required, he had not demonstrated his extraordinary ability through sustained national or international acclaim and achievements that have been recognized in his field through extensive documentation. 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 , 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 is a model, hip-hop artist, and music producer in [redacted] Russia. He indicates that he intends to continue to work in the music and fashion industries in the United States.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that he has 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 initially claimed to have met six criteria relating to lesser nationally or internationally recognized awards, published material, judging, original contributions of major significance, display of work at an artistic showcase or exhibition, and commercial success in the performing arts under 8 C.F.R. § 204.5(h)(3)(i), (iii), (iv), (v), (vii), and (x), respectively.

SCOPS determined that the Petitioner did not meet three of the claimed criteria relating to judging, original contributions of major significance in the field, and display of work at an artistic showcase or exhibition at 8 C.F.R. § 204.5(h)(3)(iv), (v), and (vii). On appeal, the Petitioner does not contest SCOPS' determination that he does not satisfy these criteria. Accordingly we deem the matters related to these criteria waived and will not discuss them in the following analysis. S*ee Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

SCOPS did conclude, however, that the Petitioner satisfied the three remaining claimed initial evidentiary requirements relating to lesser nationally or internationally recognized awards, published materials, and commercial success in the performing arts at 8 C.F.R. § 204.5(h)(3)(i), (iii), and (x). Because the Petitioner has shown that he satisfies the minimum requirements of at least three criteria, we will evaluate the totality of the evidence provided in a final merits determination.

B. Final Merits Determination

In a final merits determination, we analyze an individual's accomplishments and weigh 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. We evaluate 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. *See generally* 6 *USCIS Policy Manual* F.2(A)(1), https://www.uscis.gov/policy-manual.

In denying the underlying petition, SCOPS concluded that the totality of the evidence in the record was not sufficient to demonstrate that the Petitioner's 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.

On appeal, the Petitioner argues that the record in its entirety demonstrates his sustained acclaim and shows that he has risen to the very top of his field of endeavor. He contends that SCOPS misapplied the standards in its evaluation of the record when it, in his words, "require[d] evidence of acclaim for a specific number of years" in determining that the totality of the evidence did not establish sustained acclaim. The Petitioner further argues that SCOPS did not afford appropriate weight to published materials when it determined that this evidence lacked probative value of his sustained acclaim because of its recency. He contends that we should sustain his appeal for these reasons. Upon review SCOPS' analysis neither required that evidence be submitted for a specific number of years nor did it rely solely upon the recency of evidence submitted when determining that the Petitioner had not shown that he was one of the small percentage at the very top of the field of endeavor. Further, upon de novo review of the totality of the evidence, the Petitioner has not demonstrated 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.

The record reflects that the Petitioner has received awards, garnered some press coverage, reviewed others' work, made contributions, displayed his work, and experienced commercial success. However, in considering the totality of the evidence, the Petitioner has not demonstrated that his achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739. Furthermore, the Petitioner has not shown that he has risen to that small percentage at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the

petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Here, the Petitioner has not established that he enjoys a career that meets this very high standard.

The Petitioner provided evidence reflecting his receipt of three awards in 2023 and one award in 2024, within a year of filing the petition. Although the awards may show some recent recognition of his work from the field, the Petitioner did not demonstrate how they indicate sustained national or international acclaim or a career of acclaimed work in the field. *See Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4 (D.D.C. June 8, 2021), *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (upholding plaintiff did not contextualize his awards throughout his career to show sustained national or international acclaim). Further, the Petitioner does not establish, for instance, that his receipt of these awards is indicative that he is among that small percentage at the very top of his field of endeavor. While the Petitioner provided recommendation letters confirming that he received these awards, this correspondence does not indicate how his receipt of these awards compares with others in the top echelon of his field. Moreover, USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994).

Regarding media coverage, the Petitioner offered eight articles published in 2023 and 2024, including an article published in [redacted][1] On appeal, he contends that the articles appearing in [redacted] and other media sources "provide substantial evidence of [his] extraordinary ability in the music industry." While this media coverage indicates some recognition from the field, the Petitioner does not demonstrate how these articles are indicative of a career of sustained national or international acclaim. *See Bodhankar v. United States Citizenship & Immigr. Servs.*, No. 119CV706MADCFH, 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding that the lack of press about the plaintiff was not consistent with national or international acclaim). Moreover, the Petitioner did not show how these eight articles are indicative of a level of success consistent with being at the top of his field. For instance, he does not contextualize this level of press coverage, demonstrating how it compares with those among that small percentage at the very top of his field of endeavor. *See Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4, *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (upholding plaintiff did not show his press coverage was indicative of a level of success consistent with being at the top of his field).

Likewise, relating to the Petitioner's service as a judge of the work of others, an evaluation of the significance of his experience is appropriate to determine if such evidence indicates the required extraordinary ability for this highly restrictive classification. *See Kazarian,* 596 F. 3d at 1121-22. The Petitioner reviewed three articles authored by the same individual in 2023. However, the Petitioner did not establish that his recent review of three articles contributes to a finding that he has a career of acclaimed work in the field or indicative of the required sustained national or international acclaim. The Petitioner did not show, for example, how the recency of this experience reflects a career of

[1] We note that on appeal the Petitioner indicates that these articles are about him and discuss "his experimental approach and collaborative projects with [redacted] but in his statement provided with the underlying petition he stated that he is "also known by his stage name [redacted] (Emphasis in original). Upon review the record reflects that these articles are about the Petitioner using the stage name [redacted] and are related to his work. We evaluate them here in the context of the final merits determination.

acclaimed work in the field. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *10 (S.D.N.Y. Jan. 5, 2024) (finding the recency of the petitioner's judging events did not show a career of acclaimed work in the field). In addition, the Petitioner did not demonstrate, for instance, how his review experience compares to others at the very top of the field, or that he garnered wide attention from the field based on his review of these articles. Moreover, reviewing three articles does not automatically demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of his field. Without evidence that sets the Petitioner apart from others in his field, such as evidence that he has a consistent history of reviewing or judging recognized, acclaimed experts in his field, the Petitioner has not shown that his narrow judging experience places him among that small percentage who has risen to the very top of the field of endeavor. *See Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801, at *2 (finding the petitioner did not show that he served as a judge of renowned directors as opposed to aspiring artists or the competitions were considered prestigious or attracted significant attention by the field).

Further, the Petitioner submitted recommendation letters generally praising him and his work. While we review a sampling of these letters here, we have reviewed and considered each one. In one such letter, S-H- stated that [the Petitioner]'s musical works stand out for their originality and innovative approach and that they have "received widespread recognition from both critics and listeners" and that the Petitioner's work has "made a significant contribution to the development of musical culture." A-Z- noted that the Petitioner's "innovative approach and contributions to the music industry have had a significant impact, both nationally and internationally." Here, the letters do not further elaborate and provide detailed information explaining how the Petitioner has "received widespread recognition" or had a "significant impact." In addition, the letters do not contain sufficient information to show that he is viewed by the overall field, rather than by a solicited few, as among the upper echelon or that he has garnered recognition on a national or international scale, consistent with being among the small percentage at the very top of the field of endeavor. Although the letters highlight the Petitioner's talents, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Mishra v. Richardson*, No. 120CV991LMBTCB, 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding none of the letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim).

Regarding the Petitioner's display of work in artistic exhibitions, the Petitioner offered links in the record below to YouTube videos of his performances and promotional materials for his 2025 [redacted] tour. However, the Petitioner has not offered sufficient evidence to contextualize the response to his performances. *See generally* 6 *USCIS Policy Manual, supra,* at F.2(B)(2). For example, the Petitioner has not shown that his performances brought praise from critics, drew notable crowds, raised attendance, or were responsible for the success of the events. *See, e.g., Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801, at *2. Without sufficient evidence to provide the needed context for this response, the Petitioner has not established that he is one of a small percentage who have risen to the top of his field, that he has sustained national or international acclaim, and that his achievements have been recognized in the field through extensive documentation. *See id.* (finding that the plaintiff did not provide needed context for the response to his work).

Regarding commercial success, the Petitioner offered evidence of the royalty earnings and performance revenues generated from his work from October to December 2023 and from January to

March 2024, and the executed licensing contracts providing the bases for these royalties. Here, the Petitioner did not establish that this recent commercial success contributes to a finding that he has a career of acclaimed work in the field or is indicative of the required sustained national or international acclaim. Further, the Petitioner did not show how this evidence demonstrates that he is one of those at the very top of his field. The Petitioner did not, for instance, show how these royalties and revenues compare with others who are among the small percentage at the very top of the field of endeavor.

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence). Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. at 954 (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2002) (stating that extraordinary ability is such an elite level of accomplishment); *Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) (holding that extraordinary ability visas are known as "Einstein" visas, are extremely "coveted," and are "reserved for only the most talented" aliens"). In this case, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. Section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, the record is insufficient to demonstrate that he is among the small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his 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.