U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39698475

Date: SEP. 18, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, an intensive care physician, 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 in the sciences, arts, education, business, or athletics through sustained national or international acclaim, and whose achievements have been recognized in their field through extensive documentation.

SCOPS denied the petition, concluding that the record did not establish, as required, that the Petitioner meets at least three of the ten initial evidentiary criteria for this classification. The Petitioner subsequently filed a motion to reconsider which the Director dismissed. 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 Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

An individual is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act if: they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the country to continue working in the area of extraordinary ability; and their entry into the United States would substantially benefit the country.

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 provide evidence of a one-time achievement (that is, a major, internationally recognized award). If a

petitioner does not submit this evidence, then they must provide documentation that they meet 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).

Where a petitioner demonstrates that they meet 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 they are 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, 391 (5th Cir. 2022) (finding USCIS' two-step analysis of extraordinary ability "consistent with the governing statute and regulation").

II. ANALYSIS

The Petitioner asserts that she has made original scientific contributions of major significance to the fields of clinical nutrition, metabolic health, and intensive care medicine. She states that her work "comprises innovative research that has not only advanced scientific knowledge but also reshaped clinical practice and influenced leading voices in the field, and these contributions have been explained and published in high-impact journals, and implemented in real-world medical protocols and consistently cited by peers."

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must demonstrate that she satisfies at least three of the alternate ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). She claims that she meets nine of the ten criteria.

SCOPS denied the petition, concluding that the Petitioner did not satisfy five criteria. On appeal, the Petitioner contends that SCOPS erred by omitting four of her claimed criteria "from both the Request for Evidence (RFE) and the final denial, despite having been clearly presented in the original submission and reaffirmed in the response." She further contends that "[t]he five criteria that were referenced were addressed only superficially without meaningful engagement with the robust supporting documentation."

Upon review, we agree that SCOPS' decision did not offer a complete analysis or adequately explain the deficiencies in the evidence. Accordingly, for the reasons discussed below, we will remand the matter for the entry of a new decision.

A. Evidentiary Criteria

> *Documentation of the beneficiary's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner submitted evidence regarding three awards. After explaining the relevant factors to be considered in the analysis of this criterion, SCOPS simply stated "[a]s such, the submitted

evidence does not meet this criterion." SCOPS did not refer to any of the evidence submitted by the Petitioner or explain how the evidence in the record led to the determination that the Petitioner did not establish eligibility.

When denying a petition, SCOPS must explain in writing the specific reasons for denial. 8 C.F.R. § 103.3(a)(1)(i).[1] 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. Here, SCOPS' decision, which relied in significant part on templated language, did not satisfy this requirement.

> *Documentation of the beneficiary's membership in associations which require outstanding achievements of their members.* 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner submitted evidence regarding three memberships. After explaining the relevant factors to be considered in the analysis of this criterion, SCOPS stated:

> While this organization requires professional achievements of members, and that members be nominated by other members, association bylaws do not state they require outstanding achievements or use recognized national or international experts to determine which individuals qualify for membership.

Here, SCOPS neither identified which of the three memberships their determination was related to, nor referred to any of the evidence submitted by the Petitioner. Consequently, SCOPS should re-examine the Petitioner's claims and all evidence submitted in support of those claims when evaluating this criterion in a new decision on remand.

> *Published material about beneficiary in professional or major trade publications or other major media, relating to the beneficiary's work in the field.* 8 C.F.R. § 204.5(h)(3)(iii).

The Petitioner submitted a support letter and copy of an editorial, referred to by SCOPS as a "2024 travel Award evaluation." On appeal, the Petitioner states that the editorial was authored by the '[redacted]' and published in *Nutrients*, an internationally circulated journal. She asserts that the editorial "recognized [her] as one of two global recipients of [an] award and describes her as a 'rising star' in clinical nutrition."

SCOPS mistakenly determined that the aforementioned evidence was submitted to meet the criterion at 8 C.F.R. § 204.5(h)(3)(vi) – evidence of the beneficiary's authorship of scholarly articles in the field, in professional or major trade publications or other major media – instead of 8 C.F.R. § 204.5(h)(3)(iii). As a result, SCOPS provided an explanation of what a scholarly article is, in the academic arena, and concluded that the Petitioner's evidence did not meet this definition. On remand, SCOPS should re-examine the Petitioner's claims and evidence under the criterion at 8 C.F.R. § 204.5(h)(3)(iii).

[1] *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).

Evidence of the beneficiary's participation, either individually or on a panel, as a judge of the work of others in the same or allied field. 8 C.F.R. § 204.5(h)(3)(iv).

The Petitioner submitted documentation regarding her membership on a medical board. After explaining the relevant factors to be considered in the analysis of this criterion, SCOPS concluded that "the submitted evidence does not meet this criterion." SCOPS did not refer to any of the evidence submitted by the Petitioner or explain how the evidence in the record led to the determination that the Petitioner did not establish eligibility. On remand, SCOPS should review the evidence relating to this criterion and determine whether that evidence satisfies the plain language of the regulations.

Evidence of the beneficiary's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

Here, SCOPS stated that the petitioner submitted 11 citations, "productivity charts as a research student," and studies on Covid-19. We note here that the Petitioner asserts that she has been cited on 111 occasions, not 11 as noted by SCOPS. In the analysis of this criterion, SCOPS explains how this criterion is evaluated but then only focuses on letters of reference contained in the record, stating:

> Evidence must demonstrate that the beneficiary's contributions are not only original, but that they are of major significance in the field. The evidence does not demonstrate the major significance of the beneficiary's original contributions. The letters of reference have been submitted to demonstrate the beneficiary meets this criterion. Letters of recommendation written by experts may be helpful; however, the major significance of the beneficiary's work must be determined by preexisting, independent, and objective evidence. . .[w]ithout documentation showing that the beneficiary's work has made original contributions of major significance to the field, USCIS cannot conclude this criterion has been met.

On appeal, the Petitioner states that her scholarly work "comprises innovative research that has not only advanced scientific knowledge but also reshaped clinical practice and influenced leading voices in the field. These contributions – published in high-impact journals, implemented in real world medical protocols, and consistently cited by peers – reflect both originality and enduring value." Because SCOPS did not discuss the Petitioner's scholarly work or citation evidence, SCOPS should re-evaluate the evidence submitted as well as consider the Petitioner's arguments provided in support of the appeal.

B. Evidentiary Criteria not Considered by SCOPS

In addition to not offering a complete analysis of the aforementioned criteria, SCOPS did not provide an analysis of the Petitioner's eligibility with respect to the following claimed criteria: (1) evidence of the beneficiary's authorship of scholarly articles in the field, in professional or major trade publications or other major media at 8 C.F.R. § 204.5(h)(3)(vi); (2) comparable evidence demonstrating display of the beneficiary's work at artistic exhibitions or showcases at 8 C.F.R. § 204.5(h)(3)(vii); (3) evidence that the beneficiary has performed in a leading or critical role for

organizations at 8 C.F.R. § 204.5(h)(3)(viii); and (4) evidence that the beneficiary has commanded high salary or other significantly high renumeration for services in relation to others in the field at 8 C.F.R. § 204.5(h)(3)(x). On remand, SCOPS should review the evidence relating to these criteria and determine whether the evidence satisfies the plain language of the regulations.

III. CONCLUSION

SCOPS found that the Petitioner did not meet the initial evidence requirements for this classification, and thus, did not conduct a final merits determination. For the reasons discussed above, SCOPS shall issue a new decision that evaluates the evidence submitted in support of the claimed criteria. SCOPS should also request any additional evidence warranted and allow the Petitioner to submit such evidence within a reasonable period of time. In addition, SCOPS should consider the Petitioner's claims that comparable evidence should be considered in this matter, pursuant to 8 C.F.R. § 204.5(h)(4).

If after review SCOPS determines that the Petitioner satisfies at least three criteria, the decision should include an analysis of the totality of the record evaluating whether she has demonstrated, by a preponderance of the evidence, her 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.

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