U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39725099

Date: SEP. 29, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a multidisciplinary visual artist and art entrepreneur, 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 record did not establish the Petitioner met the initial evidence requirements for this classification through evidence of either a one-time achievement or because she meets three of the alternative evidentiary criteria under 8 C.F.R. § 204.5(h)(3). 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 immigrant 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 international 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 that meets 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 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).

II. ANALYSIS

The Petitioner intends to continue her work as an artist. She asserts she is currently "continuing work on a book, a series of painting and sketches, a new clothing line, and the Tarot project," which includes expanding the creation and availability of her own deck of tarot cards. In the United States, the Petitioner aims to further develop the graphic genre, organize solo exhibitions, publish her book in English, continue to pursue her photography, and gain the qualification to teach at universities.

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). SCOPS determined that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(vii), which relates to the display of the Petitioner's work at artistic exhibitions or showcases. SCOPS further determined the Petitioner had not met the remaining four regulatory criteria she claimed at 8 C.F.R. §§ 204.5(h)(3)(iii), (v), (viii), and (x), which respectively, relate to published material in professional or major trade publications relating to work in the field, original contributions of major significance in the field, performance of a leading or critical role for organizations or establishments with a distinguished reputation, and commercial success in the performing arts. On appeal, the Petitioner reiterates her claim that she meets five criteria. After reviewing all the evidence of record, we conclude the Petitioner has not satisfied at least three of the regulatory criteria as required and therefore does not qualify as an alien of extraordinary ability.

A. Evidentiary Criteria

> *Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

To satisfy this criterion, the published material should be about the alien and their work, rather than the alien's employer and its work (or about an organization and its work). *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual. Professional or major trader publications may be identified by their intended audience, while other major media and major trade publications should have elevated circulation or readership relative to other media in the field. *Id.*

SCOPS reviewed five articles submitted by the Petitioner in support of this criterion. However, SCOPS found that these articles either did not include an author's name, did not include evidence to demonstrate the publication constituted a professional or major trade publication or other major media, or did not include a discussion of the Petitioner's work in the field. As such, SCOPS determined the Petitioner did not meet this criterion.

On appeal, the Petitioner asserts she is not required to provide the author of an article to qualify for this criterion as the USCIS Policy Manual does not contain this mandate. The Petitioner errs in this assertion as both the regulations and the USCIS Policy Manual explicitly state that evidence under this criterion must include the title, date, and *author* of the material. *See* 8 C.F.R. § 204.5(h)(3)(iii); 6 *USCIS Policy Manual*, supra, F.2(B); *Kumar v. Dir. of U.S. Citizenship & Immigr. Servs.*, No. CV RDB-23-2251, 2024 WL 1374794, at *5 (D. Md. Apr. 1, 2024) (upholding plaintiff's evidence did not include the required title, date, or author).

The Petitioner asserts the record contains at least five articles that satisfy this criterion, including: 1) [redacted]" from usaartnews.com, 2) [redacted] from thedesigninspiration.com, 3) [redacted] from wn24.cz, 4) [redacted] from Poluostrov, and 5) [redacted] from janadelfi.ee.

However, the first and third submitted articles do not include an author. As stated above, the inclusion of the author is required for evidence submitted under this criterion.

The fourth submitted article [redacted] reflects on the exhibition of [redacted] works in Russia for the first time. The article introduces the Petitioner as a commenter, indicates the article will contain her thoughts on "the interest of the Mexican artist's [redacted] exhibition to a wide audience," and mentions that the Petitioner also has a series of her own drawings, "Selfies." However, a singular paragraph about the Petitioner's work in the context of an article focused on a [redacted] exhibition does not constitute a substantial discussion about the Petitioner's work such that it would be considered material about the person relating to the person's work under this criterion. *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B) (published material that covers a broader topic but includes a *substantial* discussion of the person's work in the field and mentions the person in connection to the work *may be* considered material about that person relating to the person's work) (emphasis added). In addition, the Petitioner did not demonstrate submit circulation or readership data for Poluostrov, the publisher of this article, or otherwise demonstrate that it qualifies as professional or major trade publications or other major media.

The second and fifth articles are published by thedesigninspiration.com and janadelfi.ee, respectively. The Petitioner asserts she has submitted SimilarWeb analytics "to provide data on website traffic,

ranking, and geographic reach for these sites." The Petitioner acknowledges that SCOPS did not find this documentation sufficient to demonstrate the publications constituted a professional or major trade publication or other major media due to a lack of context. The Petitioner asserts, however, that thedesigninspiration.com "is a longstanding platform within the visual design and creative industries, as shown by its archival reach and comparative SimilarWeb data." However, the Petitioner does not provide such comparative evidence on appeal establishing the significance or relevance of the readership statistics to show the major standing of the publication. *Branski v. Seng*, No. 24-CV-360, 2024 WL 4678939, at *5 (E.D. Wis. Nov. 4, 2024) (indicating that the failure to provide context to circulation figures makes it difficult to know their significance). Similarly, the Petitioner submitted SimilarWeb analytics for a different site, delif.ee, and asserts that even if janadelfi.ee does not constitute a major trade publication, "the broader media context of delfi.ee, one of the largest digital media networks in the Baltics," should be considered. However, as stated, in evaluating whether a submitted publication is a major trade publication, the intended audience, relative circulation, readership or viewership of that publication should be considered as relevant factors. *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B). Here, as the Petitioner has not demonstrated she is the subject of material published by delif.ee, the readership statistics of this website is not pertinent in considering whether the Petitioner has met this criterion. Overall, we concur with SCOPS that the Petitioner has not met this criterion.

> *Evidence of the alien'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).

To satisfy this criterion, a petitioner may show that their contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia v. Beers*, 4 F. Supp. 3d at 134-35. SCOPS determined the Petitioner's claimed contributions for this criterion included "Contemporary Metaphorical Graphic Art," and "The Artist's Book (Livre d'Artiste) as an Evolving Art Form." SCOPS did not find certain attachments referred to by the Petitioner in the record, but reviewed letters of recommendation from individuals acquainted with the Petitioner's artwork.[1] SCOPS found the authors of these letters characterized the Petitioner as a talented artist with original contributions to the field of art. However, SCOPS found the record insufficient to conclude the Petitioner had made original artistic contributions of major significance to the field.

On appeal, the Petitioner asserts SCOPS applied an inappropriate evidentiary standard as this criterion does not require proof that a genre significantly changed as a result of the Petitioner's work. The Petitioner asserts she has demonstrated the originality of her contributions through her "body of innovative artistic work, including the creation of metaphorical anatomical graphics – a hybrid style that synthesizes anatomical realism with symbolist visual language to explore trauma, memory, and gender politics." The Petitioner contends she "pioneered and popularized" this technique that "forms the basis for her well-known exhibitions." The Petitioner also claims her work has been recognized for making a substantial impact on contemporary metaphorical graphic art and the tradition of the artist's book through her combination of "fine art, medical illustration, literary narrative, and print

[1] On appeal, the Petitioner asserts that all listed documents were included in the submissions before SCOPS, both in the original petition and in response to the request for evidence. On appeal, the Petitioner resubmits the documentation she submitted before SCOPS.

craftsmanship." The Petitioner asserts that her original artistic contributions have been "acquired by art collectors, displayed in solo exhibitions, and referenced in academic seminars," and have "achieved widespread public and professional recognition." The record contains letters or recommendation that the Petitioner states "provide concrete examples of how [her] contributions have shaped discourse and practice in graphic art."

The record contains letters of recommendation for the Petitioner that praise her artistic talent and highlight certain attributes, including her line work, "extraordinary anatomical precision," "profound emotional depth," "mastery of light," and "distinctive approach and technique," However, though several authors of these letters asserts the Petitioner's contributions "to the art world are significant and deserving of highest recognition," they do not specifically explain or otherwise how her contributions are of major significance to her field. These authors specify that the Petitioner's "ability to blend graphic art with photography, coupled with her exceptional technique and vision, has redefined exhibition design," or "[h]er ability to merge narrative and visual art into a unified whole, while challenging conventional literary forms, marks her as a significant figure in contemporary artistic literature." However, they do not explain how the Petitioner's work has purportedly transformed exhibition design or explain the significance of this contribution in contemporary artistic literature. The record does contain a letter from the chief executive officer (CEO) of [redacted] asserting that the effect of the Petitioner's original graphic design contributions to the 2012 [redacted] received high praise and that "[h]er artistic contributions have been recognized internationally, with her work sparking a shift in industry practices toward integrating graphic art into commercial event design." In accordance with the USCIS Policy Manual, detailed letters from experts in the field explaining the nature and significance of a petitioner's contribution may provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance. *See* 6 *USCIS Policy Manual*, *supra*, at F.2(B). However, the Petitioner does not assert, and the record does not establish, that the CEO of [redacted] should be considered an expert in the field of art. The Petitioner also submitted a letter from an art instructor, Z-S-G-,[2] claiming that the Petitioner's work "has sparked discussions among artist and educators," "has been recognized and studied in academic settings," and that "her methods have influenced contemporary artists and educators," as an "example of how traditional artistic disciplines can evolve through technical innovation." Z-S-G- also claims the Petitioner's methods have resulted in "a noticeable shift among other artists who have begun experimenting with similar approaches." The record does not address where, who, or what art form Z-S-G- teaches, or otherwise establish Z-S-G- as an expert in the art field. In addition, both of these letters of support generally claim a shift in industry practices due to the Petitioner's art but do not detail which artists were actually impacted by the Petitioner's work. Similarly, the record does not detail the academic settings in which it is claimed the Petitioner's work is being studied or demonstrate what is being said about the Petitioner, and it does not otherwise establish that her work has had major impact or significance in the field. Overall, we concur with SCOPS that the record is insufficient to establish the Petitioner has made original contributions of major significance in the field. As such, the Petitioner has not met this criterion.

[2] Initials are used to protect the privacy of this individual.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R § 204.5(h)(3)(viii).

When adjudicating this requirement, USCIS first determines whether a petitioner has performed a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B). USCIS then determines whether the organization, establishment, or department or division for which a petitioner held a leading or critical role has a distinguished reputation. *Id.*

SCOPS determined the Petitioner did not establish her role as a designer for the [redacted] was a leading or critical role. SCOPS noted the Petitioner's RFE response referred to evidence in support of this criterion that was not present in the record. In addition, SCOPS found the record does not sufficiently establish that [redacted] is an organization, establishment, division, or department with a distinguished reputation.

On appeal, the Petitioner asserts that she was selected by the [redacted] curatorial committee as the sole visual designer for the [redacted] in May 2012, for which she created "the forum's visual identity," by producing "ten custom panoramic sketches of [redacted]" that were "printed on walls up to 20 meters in length." The Petitioner contends that her "level of autonomy and singular attribution" showed her leading role and that "her contribution was also critical to the forum's success." The record contains the above-discussed letter from the CEO of [redacted] who previously served as the [redacted] the largest exhibition stand construction company in [redacted] responsible for organizing and designing . . . [redacted] The author, like the Petitioner, asserts that the Petitioner played a leading and critical role "in defining the visual identity" of the 2012 event. The Petitioner asserts that [redacted] distinguished reputation is evidenced by its "high profile sponsorship and attendee lists," its sanctioning "by the Office of the President of the Russian Federation" and its coverage by "federal news channels."

Though the Petitioner contends she performed a leading or critical role for [redacted] she has not demonstrated that [redacted] an economic forum that appears to span a few days each year, qualifies as an organization, an establishment, or a division or department of an organization or establishment. *See generally id.* Indeed, the letter from the previous [redacted] identifies the Petitioner's contributions and role only as they pertain to "the event" and "the forum." The Petitioner does not assert, and the record does not otherwise demonstrate, that she performed a leading or critical role for any other organization or establishment related to her work for [redacted] As the Petitioner has not established that [redacted] constitutes an organization, an establishment, or a division or department of an organization or establishment, as required under the regulations, we concur with SCOPS that the Petitioner has not met this criterion.

Accordingly, the Petitioner has not established that she satisfies at least three of the initial evidence criteria as 8 C.F.R. § 204.5(h)(3) requires.

III. CONCLUSION

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. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that they are 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 any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. at 25 (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an alien of extraordinary ability.

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.