U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37435223

Date: APR. 4, 2025

Appeal of Texas Service Center Decision

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

The Petitioner – an athlete, referee, and coach in the sports of horseback archery and polo – seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their accomplishments in their fields. Section 203(b)(1)(A)(i) of the Act.

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate that her U.S. entry would substantially benefit the country or her claimed extraordinary ability in her field. On appeal, the Petitioner contends that the Director did not consider the evidence in its totality and introduced requirements unstated in regulations or policy.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that she established substantial benefits of her proposed U.S. entry and met the evidentiary criterion regarding receipt of lesser nationally or internationally recognized awards for excellence in her field. But, because she did not satisfy this visa category's minimum number of evidentiary requirements, we will dismiss the appeal.

I. LAW

To qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a petitioner received "a major, international recognized award," they must satisfy at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3)(i-x).[1]

If a petitioner meets either evidentiary standard and the other statutory requirements, USCIS must then make a final merits determination. To merit approval, the record – as a whole – must establish a petitioner's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner and Her Field

The record shows that the Petitioner, an Iranian native and citizen, has been riding horses since her childhood and has nearly 30 years of experience in horseback archery and polo. She earned a [redacted]. She has also served as a chief referee in several world equestrian martial arts championships.

In a written "personal statement," the Petitioner said that, in the United States, she plans to compete in, coach, and promote horseback archery and polo. "By leveraging my expertise from polo and applying it to horseback archery," she stated, "I aim to contribute to the growth and development of both sports in the United States."

B. Substantial Benefit to the United States

An alien with extraordinary ability must "substantially benefit prospectively the United States." Section 203(b)(1)(A)(ii) of the Act. Neither the Act nor regulations define the phrase "substantially benefit." *See generally* 6 *USCIS Policy Manual* F.2(A)(3). But U.S. immigration authorities have interpreted it broadly. *See Matter of Price*, 20 I&N Dec. 953, 956 (Assoc. Comm'r 1994) (holding that, "given the enormous popularity of golf in this country," a successful professional golfer's immigration would substantially benefit the United States in the future).

The Director's request for additional evidence (RFE) asked the Petitioner for "objective documentary evidence demonstrating that [her] entry will *substantially* benefit prospectively the United States." (emphasis in original). The Director found counsel's arguments in the RFE response insufficient because an attorney's unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("[S]tatements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight.")

[1] If an evidentiary criterion does not "readily apply" to a beneficiary's occupation, a petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

The Director, however, overlooked the Petitioner's personal statement. As previously indicated, she stated her intent to contribute to the growth and development of horseback archery and polo in the United States. For example, she said she would establish a new chapter of a U.S. horseback archery association and assist in training athletes and referees in the United States. Given immigration authorities' broad interpretation of the phrase "substantially benefit," the Petitioner's contributions to the growth and development of the sports in the United States would provide substantial benefits to the country. Her statement therefore satisfies the statutory requirement.

The Petitioner established that her U.S. entry would substantially benefit the United States. We will therefore withdraw the Director's contrary decision.

C. Evidentiary Criteria

The record does not indicate – nor does the Petitioner claim – her receipt of a major, internationally recognized award. *See* 8 C.F.R. § 204.5(h)(3).[2] She therefore had to meet at least three of the ten evidentiary requirements listed at 8 C.F.R. § 204.5(h)(3)(i-x).

The Director found that the Petitioner did not meet any of the evidentiary criteria she claimed. On appeal, she contends that the Director erred in finding that she did not submit documentation of her:

- Receipt of lesser nationally or internationally recognized awards for excellence in her field;
- Appearance in published materials about her and her work in the field; and
- Performance in a leading or critical role for organizations with distinguished reputations.

8 C.F.R. § 204.5(h)(3)(i), (iii), (viii).[3]

To satisfy these evidentiary requirements, the Petitioner's evidence must objectively meet the parameters of the applicable regulatory descriptions. *See generally* 6 *USCIS Policy Manual* F.2.(B).

1. Lesser Nationally or Internationally Recognized Awards

This criterion requires "[d]ocumentation of the alien'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).

When adjudicating this requirement, USCIS first determines if a petitioner – as opposed to their employer, for example – received prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1),

[2] The Director found evidence of the Petitioner's receipt of a major, internationally recognized award lacking. On appeal, however, the Petitioner states that she had withdrawn that claim. We therefore will not review the Director's finding. *See 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)) (stating that an ineligibility ground not raised on appeal is effectively waived).

[3] The Director also found that the Petitioner did not submit evidence of her membership in associations in the field requiring outstanding achievements of their members. *See* 8 C.F.R. § 204.5(h)(3)(ii). But the Petitioner does not challenge that finding on appeal and, in her RFE response, stated that "the original petition did not intend to demonstrate this criterion." We will therefore not review this evidentiary requirement. *See Matter of O-R-E-*, 28 I&N Dec. at 336 n.5 (citing *Matter of R-A-M-*, 25 I&N Dec. at 658 n.2) (effectively waiving an ineligibility ground not raised on appeal).

Criterion 1. If so, the Agency then determines whether an award honors excellence in the applicable field and garnered national or international recognition. *Id.*

The Petitioner submitted copies of certificates and published articles about numerous awards she won in horseback archery and polo, including her [redacted] The Director found insufficient evidence that the articles appeared in professional or major trade publications or other major media.

Another evidentiary criterion requires published material about an alien "in professional or major trade publications or other major media." *See* 8 C.F.R. § 204.5(h)(3)(iii). But this evidentiary requirement at 8 C.F.R. § 204.5(h)(3)(i) does not. "[N]either USCIS nor [the] AAO may unilaterally impose novel substantive or evidentiary requirements beyond those set forth." *Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010) (citation omitted). We will therefore withdraw the Director's finding.

The Director also found insufficient evidence that the Petitioner's awards garnered national or international recognition. The Petitioner, however, submitted a copy of a [redacted] article in an Iranian sports newspaper about her [redacted] Documentation about the publication describes it as the most widely circulated national sports newspaper in Iran. A preponderance of the evidence therefore demonstrates that the Petitioner's [redacted] a nationally recognized award for excellence in her field. *See* 6 *USCIS Policy Manual* F.2(B) ("[A]lthough some of the regulatory language relating to evidence occasionally uses plurals, it is entirely possible that the presentation of a single piece of evidence in a specific evidentiary category may be sufficient.")

The Petitioner satisfied this evidentiary requirement. We will therefore withdraw the Director's contrary finding.

2. Published Material about the Petitioner

As previously indicated, to meet this requirement, a petitioner must submit "[p]ublished 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. 8 C.F.R. § 204.5(h)(3)(iii). "Such evidence shall include the title, date, and author of the material, and any necessary translation." *Id.*

USCIS first determines whether published material relates to a petitioner and their specific work in their field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. USCIS will consider published material covering a broader topic if the material includes a "substantial discussion" of a petitioner's work in their field and mentions them in relation to the work. *Id.*

USCIS next determines whether a publication qualifies as a professional publication, major trade publication, or other major media. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. Relevant factors include, for professional and major trade publications, the intended audience and, for major trade publications and other major media, the relative circulation, readership, or viewership. *Id.*

The Petitioner submitted copies of six published interviews with her between 2014 and 2023 and three 2011 articles about her in the Iranian sports newspaper. The Director agreed that the material relates

to the Petitioner and her work in her field. But the Director found that the Petitioner did not demonstrate that the material appeared in professional or major trade publications or other major media.

On appeal, the Petitioner contends that the Director overlooked evidence that a newspaper that published two interviews with her – one in December 2017 and one in January 2018 – is a major medium in Iran. She states that the government-owned, daily newspaper "is recognized as one of the top three to five media outlets in Iran, which underscores its significance as a major publication."

The Petitioner submitted a July 2024 printout from an online visibility management platform with information about the newspaper. The Director, however, discounted the evidence "because the article does not list the author, and the circulation data is not during the same timeframe as the publication of the article."

As previously indicated, this evidentiary criterion requires published material to include an author's name. *See* 8 C.F.R. § 204.5(h)(3)(iii) ("Such evidence shall include the title, date, and author of the material, and any necessary translation.") The newspaper's 2018 published interview with the Petitioner lacks the author's name. But the 2017 published interview names the "journalist" who questioned the Petitioner. The Director therefore improperly discounted the 2017 interview for lack of the author's name.

The Director found the July 2024 online data about the newspaper insufficient because it did not necessarily reflect the paper's circulation at the time it published the Petitioner's interview in December 2017. USCIS determines whether a publication qualifies as a "major" medium based on its relative circulation. *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. The Director therefore properly required more accurate information regarding the newspaper's relative circulation at the time of the interview, more than six years before publication of the online data.

The Petitioner submitted a copy of an online article indicating that – in January 2018, just a month after the newspaper's first published interview with her – Iran's general directorate of internal press and news agencies ranked the newspaper among the top eight in the country. But the information does not demonstrate that the directorate based its rankings on relative circulation, the sole factor in USCIS' determination of a major medium. The directorate stated that the ranking is "aimed at enhancing the quality of content and format of the country's newspapers." The directorate said that "[t]he Qualitative Evaluation Council, in 5 sessions, provided the necessary scores on the qualitative components listed in the table of indices." Then, after receiving objections from newspapers, the directorate held "review sessions" and made amendments before finalizing the rankings. The record does not include the indices table. Thus, we do not know whether the "qualitative components" that the council considered included relative circulation. The record also does not show whether the newspapers' relative circulation otherwise affected their rankings. Because the January 2018 newspaper rankings may disregard or give little weight to the publications' relative circulation, the rankings do not establish the newspaper as a major medium for purposes of this evidentiary criterion.

The Director also found insufficient evidence that the sports newspaper that published the 2011 articles about the Petitioner qualifies as a major medium. The Petitioner, however, contends that the Director

disregarded evidence that the newspaper constitutes a "professional" publication. She argues that she submitted evidence that the publication "specifically targets sports professionals and enthusiasts."

As previously indicated, USCIS determines professional and major trade publications based on their intended audiences. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. The Petitioner submitted copies of pages in the sports newspaper and online information indicating its exclusive publication of sports articles and photographs. We therefore agree that the newspaper targets sports workers and enthusiasts.

But the definitions of the term "profession" in the Act and regulations inform our determination of the target audience of a "professional" publication. The term "profession" includes architects, engineers, lawyers, physicians, surgeons, and certain teachers. Section 101(a)(32) of the Act. The term also encompasses "any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry in the occupation." 8 C.F.R. § 204.5(k)(2). Sports workers and enthusiasts are not among the professions listed in section 101(a)(32) of the Act, nor do those activities require at least bachelor's degrees or their equivalents. The Petitioner therefore has not established the sports newspaper as a professional publication. Also, professional and major trade publications "are read by people in a particular profession or trade, rather than the population at large." *Braga v. Poulos*, No. CV 06-5105 SJO FMOX, 2007 WL 9229758, at *6 (C.D. Cal. July 6, 2007, *aff'd*, 317 F. App'x 680 (9th Cir. 2009). Sports enthusiasts include many members of the population at large. For this additional reason, the Petitioner has not demonstrated that the sports newspaper constitutes a professional publication.

The Petitioner also contends that the Director overlooked an Iranian news agency's status as a major medium. The news agency published an online interview with the Petitioner in 2019. She states that, when considering the agency as a major medium, "USCIS selectively focused on a single, supplemental reference to Wikipedia while ignoring multiple authoritative reports from reliable sources." *See, e.g., United States v. Lawson*, 677 F.3d 629, 650 (4th Cir. 2012) ("Given the open-access nature of Wikipedia, the danger in relying on a Wikipedia entry is obvious and real.")

As the Petitioner contends, the decision indicates that, in finding insufficient evidence that the news agency constitutes a major medium, the Director solely relied on the agency's Wikipedia entry. But the Petitioner's remaining evidence does not establish the agency as a major medium. The Petitioner submitted online documentation that the agency, according to one source, has the 31st most popular website in Iran and attracts almost one million daily visitors. This evidence, however, was published in 2024 and may not accurately reflect the viewership of the agency's website at the time it published the September 2019 interview with the Petitioner. She therefore has not established that the news agency was a major medium in Iran.

For the foregoing reasons, the Petitioner has not submitted published material in professional or major trade publications or other major media, relating to the alien's work in the field.

3. The Remaining Criterion

The Petitioner has met one of the evidentiary criteria but contends that she meets only one more. She therefore cannot satisfy the required minimum of three evidentiary criteria. *See* 8 C.F.R.

§ 204.5(h)(3). Thus, we need not reach and hereby reserve consideration of her argument that she submitted evidence under 8 C.F.R. § 204.5(h)(3)(viii) of her performance in a leading or critical role for organizations with distinguished reputations. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

III. CONCLUSION

The Petitioner demonstrated that her U.S. entry would substantially benefit the United States and met the evidentiary requirement regarding receipt of lesser nationally or internationally recognized awards for excellence in her field. But she has not satisfied the requested immigrant visa category's minimum amount of evidentiary criteria. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.