U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37384056

Date: APR. 7, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a sports journalist, requests 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 achievements 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 met one of ten initial evidentiary requirements – two less than needed for a final merits determination. On appeal, the Petitioner claims that he also submitted evidence of his:

- Receipt of lesser nationally or internationally recognized awards for excellence in his field;
- Display of work at artistic exhibitions or showcases; and
- Performance in a leading or critical role for organizations with distinguished reputations.

8 C.F.R. § 204.5(h)(3)(i), (vii), (viii).

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 he submitted comparable evidence of the display of his work at artistic exhibitions or showcases. But, because his evidence does not meet the minimum number of criteria, 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 as a permanent resident.

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).[1]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, USCIS must 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 His Field

The record shows that the Petitioner, a Venezuelan native and citizen, earned a bachelor's degree in communications from a university in his home country. He then worked for newspapers and television networks in Venezuela, covering sporting events around the world. He states his intent to continue sports reporting in the United States.

The Petitioner claims that the Director found insufficient evidence of his intent to continue working in his field in the United States or that his U.S. immigration would substantially benefit the country. *See* section 203(b)(1)(A)(ii), (iii) of the Act. The Director raised these issues in her request for additional evidence (RFE). But the decision does not deny the petition on those grounds. We therefore need not review the Petitioner's compliance with the statutory requirements.

B. Evidentiary Criteria

The record does not indicate – nor does the Petitioner claim – his receipt of a major internationally recognized award. He must therefore meet at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director's finding that the Petitioner submitted evidence of his participation as a judge of others' work in the field. *See* 8 C.F.R. § 204.5(h)(3)(iv).

The Director found that the Petitioner's evidence did not demonstrate his authorship of scholarly articles in the field. *See* 8 C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner does not challenge this finding. He has therefore effectively "waived" that issue. *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)).

[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).

We will now review the remaining evidentiary requirements that the Petitioner claims he met. To satisfy these criteria, his evidence must objectively meet the parameters of the applicable regulatory descriptions. *See generally* 6 *USCIS Policy Manual* F.2(B).

1. Display of Work at Artistic Exhibitions or Showcases

This criterion requires "[e]vidence of the display of the alien's work in the field at artistic exhibitions or showcases." 8 C.F.R. § 204.5(h)(3)(vii).

When adjudicating this requirement, USCIS first determines whether the displayed work is a petitioner's product. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 7. If so, the Agency next determines whether the work's display occurred at artistic exhibitions or showcases. *Id.* The word "exhibition" means a public showing (as of works of art, objects of manufacture, or athletic skill). *Merriam-Webster Online Dictionary*, www.merriam-webster.com.

The Petitioner submitted evidence that television, radio, and social media have internationally broadcast his sports journalism. The Director correctly concluded that this evidence does not meet the criterion because the Petitioner's broadcasting work did not appear in artistic exhibitions or showcases. *See Kazarian v. USCIS*, 596 F.3d 1115, 1122 (9th Cir. 2010) (affirming our decision that self-publication of a textbook, college lectures, and conference presentations did not constitute displays at artistic exhibits or showcases); *see generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 7 (noting that the regulation's plain language includes the modifier "artistic," explicitly requiring that exhibitions or showcases be artistic in nature).

The Petitioner alternatively argues that USCIS should consider evidence of his broadcasting work as comparable to evidence of the display of work at artistic exhibitions or showcases. In support, he cites a non-precedent decision of ours. *See Matter of M-L-R-* (AAO Jan. 25, 2018).

Petitioners may submit comparable evidence to establish eligibility if evidentiary requirements "do not readily apply" to their occupations. 8 C.F.R. § 204.5(h)(4). "When evaluating such comparable evidence, officers must consider whether the regulatory criteria are readily applicable to the person's occupation and, if not, whether the evidence provided is truly comparable to the criteria listed in that regulation." 6 *USCIS Policy Manual* F.2(B)(1), Comparable Evidence.

In *M-L-R-*, we found that the petitioner – a musical composer, lyricist, and performer – not only met three evidentiary criteria but also submitted evidence comparable to a fourth: display of work at artistic exhibitions or showcases. We found that evidence of a favorably reviewed performance of his songs at a distinguished venue compared to a visual artistic display. We reasoned that the artistic display criterion did not readily apply to a composer because "'[d]isplay' implies a visual component to the exhibition or showcase whereas the Petitioner's compositions are for listening entertainment."

M-L-R- is not a precedent decision. We therefore need not follow it in this matter. *See* 8 C.F.R. § 103.10(b) (stating that only precedent decisions bind USCIS in other proceedings involving the same issue or issues). Also, in *M-L-R-* we found the artistic display criterion not readily applicable to a song composer's non-visual work. Here, the Petitioner's sports journalism broadcasting is partly visual, at least when on television and some social media.

Nevertheless, we find *M-L-R-* to be analogous and persuasive. The Petitioner persuasively argues that the display of work at an artistic exhibition or showcase does not readily apply to his occupation because artistic exhibitions and showcases do not generally display journalism. Also, a journalist's broadcasts on television, radio, and social media generally are comparable to public displays of work at artistic exhibitions or showcases. We therefore accept the Petitioner's broadcast journalism evidence to meet this evidentiary requirement.

The Petitioner submitted evidence comparable to the display of his work at artistic exhibitions or showcases. We will therefore withdraw the Director's contrary decision.

2. Performance in a Leading or Critical Role

To meet this requirement, a petitioner must submit "[e]vidence 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).

USCIS first determines whether a petitioner has performed in 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* F.2(B)(1), Criterion 8. A leading role means that a petitioner is (or was) a leader within the organization, establishment, division or department. *Id.* In contrast, a critical role means a petitioner "contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment." *Id.*

The Agency then determines whether the organization, establishment, department, or division for which a petitioner holds or held a leading or critical role has a distinguished reputation. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. "[D]istinguished" means "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Merriam-Webster Online Dictionary*, *supra*. Relevant factors include not only the relative size or longevity of an organization or establishment but also other information such as the scale of its customer base or relevant media coverage. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8.

The Director found that a letter from an international press association demonstrated the Petitioner's performance in a leading or critical role. But the Director found insufficient evidence that the association has a distinguished reputation.

On appeal, the Petitioner claims that the Director disregarded evidence of his selection to a committee that annually chooses Venezuela's '[redacted]' Letters from members of a sports journalist association that selects the committee's members state the Petitioner's place on the nine-member panel since 2007. He contends that he "holds an esteemed position within the selection committee responsible for awarding the highest honor in sports recognition" in Venezuela. He also states that, since the association's establishment in 1943, it has had a distinguished reputation.

Based on the association's history and role in choosing Venezuela's athlete of the year, the Petitioner has submitted evidence that the association has a distinguished reputation. But the association letters

do not demonstrate his purported critical role on the panel. The documents do not explain why his role is more important than those of other panel members.

The Petitioner has not submitted evidence explaining his purported critical role on the committee. We will therefore affirm the Director's adverse finding regarding this evidentiary criteria.

3. Lesser Nationally or Internationally Recognized Awards

The Petitioner's RFE response included documentation intended to meet this evidentiary requirement. But the Director's decision did not address the criterion. We will therefore decide this requirement in the first instance.

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).

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

The Petitioner submitted evidence that he won the international press association's "Sports Journalist of the Year" award in 2020 for his work during the COVID-19 pandemic. A letter from the association's general secretary states the Petitioner's selection from more than 50 journalists based on his outstanding reporting, innovative storytelling, ethical standards, consistency and dedication, impact on the field, and recognition and accomplishments. "In a year marked by the global pandemic and significant disruptions to the sports world," the general secretary wrote, "[the Petitioner] demonstrated unparalleled resilience, adaptability, and excellence in reporting."

The letter demonstrates the Petitioner's receipt of an award for excellence in his field. The record, however, lacks evidence that the award has national or international recognition. The Petitioner must show how others outside the issuing association regard the award. *See Krasniqi v. Dibbins*, 558 F.Supp.3d 168, 182 (D.N.J. 2021) (quoting *Visinscaia v. Beers*, 4 F.Supp.3d 126, 136 (D.D.C. 2013)) (holding that a petitioner must show "how a larger audience viewed [the] awards"). The record does not indicate whether Venezuelans or populations outside that country know of the award. The Petitioner submitted recommendation letters from others in the field. But none of the letters mention that he won this award.

The Petitioner established his receipt of an award for excellence in his field. But the record does not establish that the award has national or international recognition. He therefore has not met this evidentiary requirement.

III. CONCLUSION

The Petitioner submitted materials comparable to evidence of the display of his work at artistic exhibitions or showcases. But he has not met the requested immigrant visa category's minimum amount of evidentiary criteria. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.