U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37468092

Date: APR. 09, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a general and operations manager, seeks classification as an individual of extraordinary ability in the field of business. *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.

The Director of the Texas Service Center denied the petition, concluding the record did not establish the Petitioner qualifies as an individual of extraordinary ability either as the recipient of a major, internationally recognized award, or at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). The matter is now before us on appeal. 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.

The Petitioner indicated on the Form I-140, Immigrant Petitioner for Alien Workers, that he is applying for the employment-based, first preference visa as an alien of extraordinary ability. In response to the Director's notice of intent to deny (NOID), the Petitioner reiterated the same. Therefore, we will review the appeal under the regulations at 8 C.F.R. § 204.5(h). In addition, upon review of the Petitioner's response to the NOID, the Petitioner's documents in a foreign language were accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3).

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with 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; who seek to enter the United States to continue work in the area of extraordinary ability; and whose 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).

Where a petitioner meets the initial evidence requirements through either a one-time achievement or meeting three lesser criteria, 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).

The Petitioner stated in the record that he will provide advisory services and guide businesses in process automation, digital customer service, and strategic planning, while also supporting emerging entrepreneurs by providing mentorship, networking opportunities, and access to investors. He further stated that his endeavor, rooted in technological and human development, directly aligns with the current demand for qualified professionals to drive innovation and sustain economic growth in the U.S. He asserted that his extraordinary ability and proven contributions to the business sector will undoubtedly have a lasting impact on the U.S. economy and society. The petitioner outlined his "extensive education, diverse skill set, and international exposure" and noted that it all "positions him as an extraordinary and well-rounded professional in the fields of business administration and management."

Because the Petitioner has not indicated or shown that he 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 stated that he meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (v), (vi), (vii), and, (viii) for receipts of lesser nationally or internationally recognized awards for excellence in the field of endeavor; membership in associations that require outstanding achievements; publications about the petitioner in professional or major trade publications or major media; original contributions of major significance; authorship of scholarly articles in the field, in professional or major trade publications or other major media; display of the alien's work in the field at artistic exhibitions or showcases; and, leading or critical role for distinguished organizations or establishments. The Director detailed the evidence and provided an analysis for each of the claimed criteria and discussed how the evidence did not sufficiently demonstrate that the Petitioner met each criterion.

On appeal, the Petitioner contends that an "inadequate analysis and reliance on an initial superficial review of the translations has resulted in a failure to conduct a thorough review as mandated, leading to a premature conclusion that I do not satisfy the criteria for EB1 category." The Petitioner does not specifically contest the Director's decision and requests a "thorough and detailed review of each piece of evidence." However, the Director listed the evidence submitted by the Petitioner and provided an analysis for each of the claimed criteria and discussed how the evidence did not sufficiently demonstrate that the Petitioner met each criterion. On appeal, the Petitioner did not present an argument or submit evidence to overcome the Director's concerns of each criterion. *Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (declining to address a "passing reference" to an argument in a brief that did not provide legal support). The brief contains no evidence or arguments addressing the

Director's determination for the criteria claimed by the Petitioner. Therefore, we consider these issues to be abandoned. *See Matter of R-A-M-*. 25 I&N Dec. 657. 658 n.2 (BIA 2012) (stating that when a filing party fails to appeal an issue addressed in an adverse decision, that issue is waived). *See also Sepulveda v. U.S. Att'v Gen.*, 401 F.3d 1226. 1228 n. 2 (11th Cir. 2005), citing *United States v. Cunningham*, 161 F.3d 1343, 1344 (11th Cir. 1998); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (plaintiff's claims were abandoned as he failed to raise them on appeal to the AAO).

For example, regarding the criterion at 8 C.F.R. § 204.5(h)(3)(ii), the Director listed the evidence submitted by the Petitioner including his membership in the audiovisual and integrated experience association; the SGS (general company of supervision); the national professional council of business administration (integrity, service and excellence); the association of cattlemen [redacted]; and, his professional license as a business administrator. The Director noted that the documentation submitted in support of the membership requirements did not meet the plain language of the criterion and determined that the Petitioner did not submit documentary evidence demonstrating that outstanding achievements are required for membership in these organizations. In addition, the Petitioner does not explain if all of these associations relate to his field of business administration and management, and whether the associations utilize national or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding. On appeal, the Petitioner solely requests that the evidence submitted with the petition is reviewed but does not provide evidence or arguments to overcome this issue.

The Director also outlined the evidence submitted in support of 8 C.F.R. § 204.5(h)(3)(iii) and explained that the record did not include documentation showing that the materials were published in any form of media listed in the criterion. Again, the Petitioner did not present any evidence or arguments on appeal to overcome the Director's concerns.

Pertaining to original contributions of major significance at 8 C.F.R. § 204.5(h)(3)(v), the Director listed several documents submitted for this criterion and stated that the evidence does not demonstrate the major significance of the Petitioner's original contributions. The Director also noted discrepancies found in certain letters such as one author noting he rented a room from the Petitioner and some authors referring to the Petitioner as a "doctor" but the evidence in the record does not demonstrate the Petitioner obtained a doctorate. The Director further stated that the letters of support alone are generally not sufficient. On appeal, the Petitioner does not address the evidentiary deficiencies noted by the Director and does not overcome the Director's conclusions on this issue.

Regarding 8 C.F.R. § 204.5(h)(3)(vi), the Director listed all submitted evidence and determined that the record does not establish the articles are scholarly in nature and whether the articles were published in professional or trade publications or other major media. The articles in question should be written for learned persons in that field including all persons having profound knowledge of a field. *See* 6 *USCIS Policy Manual* F.2(B)(1), https://www. uscis.gov/policy-manual. Again, the Petitioner did not present any arguments or evidence on appeal to overcome the Director's concern on this issue.

The regulation at 8 C.F.R. § 204.5(h)(3)(vii) requires "[e]vidence of the display of the alien's work in the field at artistic exhibitions or showcases." The Director indicated that the Petitioner did not establish that the work displayed constituted his own work product presented as the subject of an

artistic exhibition or showcase. On appeal, the Petitioner did not present arguments or evidence to overcome the Director's concerns.

Regarding 8 C.F.R. § 204.5(h)(3)(viii), the Petitioner stated in his response to the NOID that he consistently held leadership and critical roles in his prior employments with several companies. The Director indicated in the decision that the Petitioner has not submitted sufficient evidence to establish that the organizations or establishments in which they claim to have performed in a leading or critical role possess a distinguished reputation. The Director further noted that the Petitioner did not show that he played a critical role where he has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division of department of the organization or establishment. As stated, on appeal the Petitioner requests a reconsideration of all evidence but does not provide any arguments or evidence to overcome the Director's concerns on this issue.

On appeal, the Petitioner has not identified a specific error related to these criteria but rather requests that the Director reconsider all the submitted evidence. Moreover, he has not addressed the evidentiary deficiencies the Director identified. It is the Petitioner's burden to submit evidence that sufficiently corroborates its claims. Statements made without supporting documentation are of limited probative value and are insufficient to satisfy the Petitioner's burden of proof. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998). As such, he has not overcome the Director's determination under these criteria.

As previously noted, the Petitioner also asserts that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(i), which requires evidence of his receipt of lesser nationally or internally recognized prizes or awards for excellence in the field of endeavor. However, because the Petitioner has not demonstrated that he meets three of the four evidentiary criteria claimed in the petition, he would not establish that he met the criterion at 8 C.F.R. § 204.5(h)(3)(i). As such, we need not determine whether he meets the requirements of this criterion, nor do we need to provide the type of final merits determination referenced in *Kazarian,* 596 F.3d at 1119-20. Accordingly, we will reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

The Petitioner has not shown that he met either a one-time award, or three of ten initial criteria. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); see also section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and that he is one of the small percentage who have risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

ORDER: The appeal is dismissed.