U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37188967

Date: APR. 17, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an information technology project manager, seeks classification as an individual of extraordinary ability in 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 aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id*.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish either that he received a major, internationally recognized award, or that he satisfied at least three of the 10 initial evidentiary criteria. 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) of the Act makes visas available to immigrants 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 sustained acclaim and the recognition of their 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 they must provide sufficient qualifying documentation that meets at least three of the 10 categories 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).

II. ANALYSIS

At the time the Petitioner filed the Form I-140, Immigrant Petition for Alien Workers, he described his endeavor as a plan "to continue my career as a [sic] Information Technology Project Manager in the United States."

As noted above, the Director concluded the record does not establish the Petitioner received a one-time achievement of a major, internationally recognized award. The Director further determined that the record does not satisfy, in the alternative, at least three of the 10 criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). Specifically, the Director determined that the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(iv). However, the Director also concluded that the record does not satisfy the criteria at 8 C.F.R. §§ 204.5(h)(3)(ii), or (v)-(ix), noting that the Petitioner did not assert eligibility under the criteria at 8 C.F.R. §§ 204.5(h)(3)(i), (iii), or (x). On appeal, the Petitioner reasserts that, in addition to the criterion at 8 C.F.R. § 204.5(h)(3)(iv), the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(ii), (v)-(vi), and (viii)-(ix). The Petitioner does not assert on appeal—and the record does not support the conclusion—that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i), (iii), (vii), or (x). The record does not satisfy at least three of the 10 criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x) for the reasons discussed below.

A. Membership in Associations in the Field

The criterion at 8 C.F.R. § 204.5(h)(3)(ii) requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields."

The Director acknowledged that the record contains, in relevant part, the following: a letter confirming the Petitioner's membership in the [redacted] and information regarding [redacted], including evidence that [redacted] granted a [redacted] certification to the Petitioner. However, the Director observed that the record does not establish whether "the basis for granting memberships in [redacted] was the [P]etitioner's outstanding achievements in the field of endeavor as judged by recognized national or international experts in their field." Therefore, the Director concluded that the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

On appeal, the Petitioner asserts that the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(ii) because [redacted] stringent membership criteria include[e] the [redacted] certification . . . and the successful passing of a rigorous examination process" and, therefore, his "membership in this organization demonstrates outstanding achievements, supported by recognized experts in project management."

The record contains an undated document that certifies the Petitioner is a member of [redacted] We note, however, that the Petitioner's résumé indicates that he has been a member of [redacted] "since: JUN/2017." The record also contains a separate document, dated July 31, 2017, that certifies the Petitioner "has been formally evaluated for demonstrated experience, knowledge and performance in achieving an organizational objective through defining and overseeing projects and resources and is hereby bestowed the global credential [redacted]" The Petitioner's statement on his résumé that he became a member of [redacted] in June 2017, before he received his [redacted] certification on July 31, 2017, directly conflicts with the Petitioner's assertions on appeal that [redacted] membership criteria include [redacted] certification. This casts doubt on the veracity of the Petitioner's statements, undermining the reliability and sufficiency of the remainder of the record. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (providing that doubt cast on any aspect of a petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of a visa petition).

Moreover, although the record also contains general information regarding [redacted] it does not establish what its membership criteria actually entail, and whether recognized national or international experts in their disciplines or fields judge prospective members' achievements.

In summation, the record does not establish that the Petitioner is a member in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. Therefore, it does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

B. Contributions of Major Significance in the Field

The criterion at 8 C.F.R. § 204.5(h)(3)(v) requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field."

The Director acknowledged that the Petitioner authored a book regarding project management. However, the Director observed that the record does not contain "evidence that people throughout the field currently consider his work important or that his work has provoked widespread public commentary in the field or has been widely cited." Therefore, the Director concluded the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(v).

On appeal, the Petitioner asserts that the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(v) because his book "has introduced innovative frameworks combining project management principles with philosophical insights, which have been adopted by various organizations." The Petitioner also states that "letters of support from industry experts, such as [redacted] underscore the widespread impact of [his] work."

We first note that the Petitioner filed the Form I-140 on July 27, 2023. However, the Petitioner stated several times throughout the record that his book "is scheduled to be lauched [sic] and published on 7/28/2023," after the petition filing date.

A petitioner must establish eligibility for a requested benefit at the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(1). A visa petition may not be approved based on speculation of future eligibility or after a petitioner becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petitioner may not make material changes to a petition in an effort to make a deficient petition conform to USCIS requirements. *See Matter of Izummi*, 22 I&N Dec. 169, 176 (Assoc. Comm'r 1998).

Because the record does not establish that the book in question was published as of the petition filing date, it cannot establish eligibility. *See* 8 C.F.R. § 103.2(b)(1); *Matter of Katigbak*, 14 I&N Dec. at 49; *Matter of Izummi*, 22 I&N Dec. at 176. Relatedly, because the Petitioner filed the Form I-140 before he published the book in question, any subsequent commentary on its importance from others working in the field, or citations to it, also cannot establish eligibility because such commentary or citations would present a new set of material facts that did not exist at the time the Petitioner filed the Form I-140. *See* 8 C.F.R. § 103.2(b)(1); *Matter of Katigbak*, 14 I&N Dec. at 49; *Matter of Izummi*, 22 I&N Dec. at 176.

Even if the Petitioner's book could establish eligibility, which it cannot, contrary to the Petitioner's assertions, the record does not contain letters of support that demonstrate his book constitutes an original contribution of major significance to the field of information technology project management, business administration, or any other field. The letter from [redacted] to which the Petitioner refers appears to be his five-sentence statement used as one of the book's forewords. [redacted] opines that the Petitioner's "contributions will leave an indelible mark on the project management community, bringing light to a new perspective of learning and practice." However, as a foreword written and published in the initial printing of the book, [redacted] opinion does not provide an informed opinion on how the book has, in fact, contributed to the field of information technology project management, business administration, or any other field, as a result of it being published and read. As another example, the record also contains an undated letter from a regional quality manager for [redacted] that expresses "confidence that [the Petitioner's] book will become a valuable guide for professionals eager to reach new heights in their careers," but it does not discuss how the book may have, in fact, had such an impact. More specifically, the record does not support the Petitioner's assertion on appeal that various unspecified organizations have adopted his book's "innovative frameworks combining project management principles with philosophical insights" in a way that would demonstrate the book is an original work of major significance in the field of information technology project management, business administration, or any other field.

In summation, the record does not establish that, at the time the Petitioner filed the Form I-140, he had made original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. Therefore, it does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(v).

C. Leading or Critical Role

The criterion at 8 C.F.R. § 204.5(h)(3)(viii) requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation."

The Director acknowledged that the record contains information regarding the Petitioner's work for various employers. However, the Director observed that the record "does not indicate that the role the [P]etitioner has performed . . . was leading or critical." The Director further determined that the record does not establish that his former employers "have a distinguished reputation." More specifically, the Director observed that the record does not "demonstrate the organizations have a distinguished reputation because the evidence did not document the organizations' or establishments' eminence, distinction, or excellence and documentary evidence was not submitted to substantiate the claims." Therefore, the Director concluded the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

On appeal, the Petitioner reasserts that the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(viii) because "letters from senior management" attest he "has played a leading or critical role in several high-profile organizations, including [redacted] such as "instrumental involvement in implementing complex IT solutions that significantly advanced corporate objectives." The Petitioner also generally states that he "has served in a critical role for organizations with a distinguished reputation," without clarifying what information in the record illustrates any particular organization's distinguished reputation.

The Petitioner submitted a copy of his résumé, which indicates he worked for [redacted] as a "technical support analyst" from June 2002 to December 2004, and as a "customer service representative" from December 2004 to August 2008. In turn, the résumé indicates that the Petitioner worked for Softplan as a "Project Manager III" from June 2015 to November 2017. The record contains a letter from the "team leader for the customer service team" who "collaborat[ed] with" the Petitioner for "over two years" of the latter's six-year employment at [redacted] The record also contains a letter from an international project manager at Softplan who asserts he "worked together" with the Petitioner in 2016 and 2017, when the petitioner worked as a "senior IT project manager" while the letter author "served as a project management coordinator . . . overseeing a team of 30 employees." The letters summarize the Petitioner's duties during that period and projects he completed.

We acknowledge that the letters establish that the Petitioner contributed in a way that is of significant importance to the outcome of a division or department of the respective organizations or establishments and, thus, he has performed in critical roles. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. However, the record does not establish that his employers qualify as organizations or establishments that have a distinguished reputation. Merriam-Webster's online dictionary defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Distinguished*, Merriam-Webster.com, www.merriam-webster.com. As the Director observed, the record does not contain documentary evidence to substantiate the Petitioner's general statements regarding his former employers' notoriety in order to determine whether their notoriety can be described as marked by eminence, distinction, or excellence, or befitting an eminent person.

In summation, the record does not establish the Petitioner has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. Therefore, it does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

D. High Salary or Other Significantly High Remuneration

The criterion at 8 C.F.R. § 204.5(h)(3)(ix) requires "[e]vidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field."

The Director acknowledged that the record contains IRS Forms W-2 for the Petitioner from multiple employers dated 2022, and salary information for project managers in Florida in 2023 from Indeed.com and Glassdoor. However, the Director noted that, because "wages fluctuate annually and data from different years is not comparable," the salary information does not compare the Petitioner's 2022 salary or other remuneration to others in the field for that year. Therefore, the Director concluded the record does not establish whether the Petitioner's salary or other remuneration was high in relation to others in the field and, thus, does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ix).

On appeal, the Petitioner reasserts that the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(ix) because, regardless of "the timing of salary data," the 2022 Forms W-2 and salary information establish his salary or other remuneration for services is "significantly higher than the average salary for professionals in similar roles."

The Petitioner submitted information regarding his income earned in 2022, for employers with addresses in Georgia and New York. The Petitioner's résumé indicates that, from June 2022 to September 2023, he performed "remote work" for the employer located in New York and that, from December 2021 through March 2023 he also performed "remote work" for the employer located in Georgia. In contrast, the Petitioner submitted a salary estimate for a "project manager" in Florida in 2023 from Indeed.com and Glassdoor.

The record does not clarify whether the Petitioner's income for remote work performed for employers located in New York and Georgia is based on wage levels in those locations or in the location where the Petitioner actually performed the remote work. Therefore, beyond the issue of comparing the average salary from one year to salaries earned in a different year addressed by the Director, the record does not establish how many different locations' average salaries ought to be compared, and which locations' average salaries ought to be compared.

We further note that the information provided in the Indeed.com and Glassdoor documents is overly broad. Both sources report estimates for the entire state of Florida, although salaries may vary within various metropolitan areas. Moreover, they appear to reflect salaries for project managers working in many disparate industries, including: "Agriculture; Arts, Entertainment & Recreation; Pharmaceutical & Biotechnology; Management & Consulting; Construction, Repair & Maintenance Services; Personal Consumer Services; Education; Financial Services; Government & Public Administration; Healthcare; Information Technology; Insurance; Manufacturing; Media & Communication; Nonprofit & NGO; Energy, Mining & Utilities; Real Estate; Restaurants & Food Service," and others, rather than reflecting only salaries of information technology project managers. Therefore, the information

provided in the Indeed.com and Glassdoor documents does not provide estimates for similarly situated individuals in the same field as the Petitioner.

Because the record does not clarify these deficiencies, it does not establish what similarly situated information technology project managers' salary or other remuneration was in 2022, precluding a comparison of such information to the evidence in the record of the Petitioner's salary or other remuneration.

In summation, the record does not establish the Petitioner has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. Therefore, the record does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(ix).

Because the record does not satisfy the criteria at 8 C.F.R. §§ 204.5(h)(3)(ii), (v), and (viii)-(ix), and because the Petitioner does not assert the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i), (iii), (vii), or (x), the record would not satisfy at least three of the 10 initial evidentiary criteria, even if it satisfied the criterion at 8 C.F.R. § 204.5(h)(3)(vi). Accordingly, we reserve our opinion regarding whether the record satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(vi). *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not established he received a one-time achievement or, in the alternative, provided sufficient evidence that meets at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. *See INS v. Bagamasbad*, 429 U.S. at 25; *see also Matter of L-A-C-*, 26 I&N Dec. at 526 n.7. Nevertheless, we have reviewed the record in the aggregate, concluding that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

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 has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act; *see also* 8 C.F.R. § 204.5(h)(2).

ORDER: The appeal is dismissed.