U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-M-A-

DATE: AUG. 11, 2017

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a bodybuilding promoter, seeks classification as an individual of extraordinary ability in athletics. 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 Nebraska Service Center denied the Petitioner's Form I-140, Immigrant Petition for Alien Worker. We dismissed his appeal, and he has filed a motion to reopen and a motion to reconsider. Upon review, we will deny the motions.

I. LAW

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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate 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 documentation that meets at least three of the ten 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 submits qualifying evidence under at least three criteria, we will then determine whether the totality of 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.[1]

[1] *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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

A motion to reopen is based on documentary evidence of *new facts*, and a motion to reconsider is based on an *incorrect application of law or policy*. The requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2), and the requirements of a motion to reconsider are located at 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. BACKGROUND

In dismissing the appeal, we determined that the Petitioner satisfied one of the regulatory criteria – judging under 8 C.F.R. § 204.5(h)(3)(iv). In addition, we found that the Petitioner did not meet these six contested criteria: awards under 8 C.F.R. § 204.5(h)(3)(i), membership under 8 C.F.R. § 204.5(h)(3)(ii), published material under 8 C.F.R. § 204.5(h)(3)(iii), original contributions under 8 C.F.R. § 204.5(h)(3)(v), artistic display under 8 C.F.R. § 204.5(h)(3)(vii), and leading or critical role under 8 C.F.R. § 204.5(h)(3)(viii). On motion, the Petitioner presents additional documentation and argues that he meets eight criteria.[2]

III. ANALYSIS

A. Motion to Reopen

The Petitioner argues that his additional documentation establishes his eligibility regarding four criteria: awards, published material, original contributions, and leading or critical role. As it relates to the awards criterion, the Petitioner submits five letters from Iranian bodybuilders[3] who attested to their professional achievements and indicated that the Petitioner was their promoter, manager, and coach. In addition, the Petitioner provides additional evidence of the bodybuilders' various finishes and awards. As found in our prior decision, the regulation at 8 C.F.R. § 204.5(h)(3)(i) relates to the Petitioner's own receipt of prizes or awards, and the accomplishments of the athletes that he promoted, coached, and managed do not qualify for this criterion. The Petitioner offers the following as evidence of his own awards:

- A certificate from the [redacted] for the Petitioner's "active participation in the organization and holding on the [redacted] in Uzbekistan, [redacted] on [redacted] 2011,"
- A photograph attached to [redacted] letterhead stating the Petitioner received '[redacted] and
- A certificate of merit from the [redacted] acknowledging that the Petitioner "has devoted himself to the mastery of the science of

[2] The Petitioner does not identify or indicate how the evidence relates to an eighth criterion beyond the seven claimed on appeal.

[3] [redacted] and [redacted]

> bodybuilding & Fitness and has through his untiring effort, helped to adnance [*sic*] bodybuilding & Fitness in his country."

The Petitioner claims that and "are internationally recognized organization[s] within the and therefore any awards won by the Applicant were within the organization[s] that are nationally and internationally recognized." However, the issue is not the standing of the awarding organizations or associations but whether the prizes or awards from those entities are nationally or internationally recognized for excellence. Here, the Petitioner did not demonstrate that his certificates and medal are nationally or internationally recognized prizes or awards for excellence in his field. For instance, the Petitioner did not submit evidence showing that these awards receive publicity at a national or international level in the field. Accordingly, the Petitioner did not overcome our finding on this criterion from our previous decision.

Regarding the published material criterion, the Petitioner presents articles from , and Although our prior decision noted that the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires the author of the published material, the Petitioner does not include the authors of the articles. As determined previously, while the articles from and represent published material discussing the Petitioner and his work, the other articles relate to competitions, listing the bodybuilders' results and only mentioning the Petitioner as the coach or promoter without any discussion about him. Articles that are not about the petitioner do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles relating to a show do not pertain to the actor).

In our previous decision, we found the record did not include sufficient evidence that and are professional or major trade publications or other major media. On motion, the Petitioner offers a letter from sports journalist, who stated that has a print distribution between 14,000 and 22,000. Moreover, the Petitioner submits a letter from public relations for who indicated that has a weekly circulation of 10,000 to 15,000, and was a weekly magazine that interviewed Iranian athletes and actors. The letters, however, do not establish that and are professional or major trade publications or other major media. The record does not include comparative data to show that the claimed circulation statistics for are indicative of a major sports publication. In addition, did not provide information, such as print distribution or level of popularity, demonstrating that was a professional or major trade publication or other major medium.

The Petitioner also presents screenshots regarding competitions that were posted on While there is a photograph of the Petitioner and a quote from him, the screenshots relate to the competitions rather than to the Petitioner. Further, the Petitioner did not demonstrate that the website is a professional or major trade publication or other major medium.

Finally, the Petitioner submits a letter from director manager for who stated that is a "[f]amous sports weekly [i]nternational [m]agazine," and the publication interviewed the Petitioner" in 2016. The Petitioner, however, did not provide the article, title, date, and author of the published material, and the interview occurred after the filing of the petition. *See* 8 C.F.R. § 103.2(b)(1). Further, without the submission of the article itself, the Petitioner has not demonstrated it constituted published material about him relating to his work. In addition, the Petitioner did not provide corroborating evidence, such as circulation statistics, to show that is a professional or major trade publication or other major medium. For these reasons, the Petitioner's evidence does not establish that he meets this criterion.

Regarding the original contributions criterion, as indicated above, the Petitioner provides letters from five Iranian bodybuilders who listed their athletic achievements and identify him as their promoter, manager, and coach. Each of the letters state: "I would not Have Accomplished any of The Achievements without the direct involvement of [the Petitioner] is equally or more responsible for any achievements with the [*sic*]." While the Petitioner provided screenshots and certificates of their various finishes, he did not establish how these achievements are of major significance in the field. The evidence does not show the impact of the Petitioner's coaching, promoting, or managing beyond the individual athletes with whom he worked. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

The Petitioner also presents participation certificates, a letter thanking him for his "great [j]ob in the in Mongolia 2011 & in Uzbekistan 2012," and photographs of himself presenting trophies and medals to bodybuilders. Although the documentation shows the Petitioner's participation in bodybuilding events, the evidence does not establish that his involvement has been of major significance to the field. The Petitioner, for example, did not show that his contributions were responsible for making the noted bodybuilding championships significant or major events in the field. Accordingly, the Petitioner did not demonstrate that he satisfies this regulatory criterion.

Relating to the leading or critical role criterion, we previously found that the Petitioner did not establish that the and have distinguished reputations. The Petitioner submits event information relating to the in 2017, invitations for the and to attend various events, documentation relating to constitution and history, and letters confirming the official representation in the parent organization. The Petitioner contends that the reputation is established by its recognition or affiliation with which he contends is recognized by However, the Petitioner has not demonstrated that affiliation with requires or confers a distinguished reputation. Accordingly, he has not shown that in which he served as founder and representative, enjoys a distinguished or eminent reputation in the field.

Furthermore, while the Petitioner states that "various prestigious organizations have extended an invitation [to and athletes for participation in athletic events by the virtue of the membership [in] these two organizations," he has not provided evidence to support the claimed prestige of the inviting organizations, nor do the invitations indicate that the athletes have been selected based on their membership in the and Although the documentation shows affiliations between the and other competitive bodybuilding entities and indicates requests for and athletes to attend sanctioned events, it does not demonstrate that or enjoys a distinguished reputation in the field. For these reasons, the Petitioner did not overcome the grounds in our prior decision for this criterion.

B. Motion to Reconsider

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). While the Petitioner generally contends that "the evidence was sufficient" to demonstrate his eligibility "as an individual of extraordinary ability," he does not specify how we erred in our findings with respect to the evidentiary criteria. Nor does the Petitioner supplement the motion with a pertinent precedent or adopted decision, statutory or regulatory provision, or statement of U.S. Citizenship and Immigration Services or Department of Homeland Security, demonstrating that we incorrectly applied law or policy in our decision.

IV. CONCLUSION

The Petitioner's motions do not overcome the grounds in our prior decision, and he has not shown that he qualifies as an individual of extraordinary ability.

ORDER: The motion to reopen is denied.

FURTHER ORDER: The motion to reconsider is denied.

Cite as *Matter of A-M-A-*, ID# 432223 (AAO Aug. 11, 2017)