U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 17872747

Date: AUG. 12, 2021

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a media production agency, seeks to classify the Beneficiary, a senior vice president of production finance, as a foreign national of extraordinary ability in business. To do so, the Petitioner seeks O-1 nonimmigrant classification, available to foreign nationals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

The Director of the Vermont Service Center denied the petition, concluding that the Petitioner did not satisfy, as required, the alternative evidentiary criteria applicable to individuals of extraordinary ability in business, either a major, internationally recognized award or at least three of eight possible forms of documentation. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

On appeal, the Petitioner asserts that the Beneficiary meets at least three criteria.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics that has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of science, education, business, or athletics" as "a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor." 8 C.F.R. § 214.2(o)(3)(ii).

Next, DHS regulations set forth alternative evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. 8 C.F.R. § 214.2(o)(3)(iii). A petitioner must

submit evidence either of "a major, internationally recognized award, such as a Nobel Prize," or of at least three of eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994) ("The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met."). Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows sustained national or international acclaim such that the individual is among the small percentage at the very top of the field of endeavor. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).[1]

II. ANALYSIS

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). The Director determined that the Petitioner provided evidence relating to three criteria, but that it demonstrated the Beneficiary's eligibility for only one criterion, critical or essential capacity at 8 C.F.R. § 214.2(o)(3)(iii)(B)(7). We will not disturb that finding. The Petitioner maintains on appeal that the Beneficiary fulfills two additional alternate criteria, related to membership in associations requiring outstanding achievements and high salary or other remuneration. For the reasons discussed below, we find that the documentation does not meet at least three of the initial evidentiary criteria.

> *Documentation 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.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*2*).

The Petitioner maintains the Beneficiary's eligibility for this criterion through her position as board member and treasurer of the [redacted] Chamber of Commerce [redacted] Chapter, Inc. [redacted] and her membership in [redacted].[2] In order to satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought. In denying the petition, the Director found that the Petitioner did not submit evidence that [redacted] requires outstanding achievements of its members, as judged by recognized national or international experts. The Director's decision did not address the Petitioner's claim regarding the Beneficiary's membership in [redacted]. On appeal, the Petitioner has not submitted any new evidence related to the Beneficiary's memberships, asserting that the documentation demonstrates

[1] *See also Matter of Chawathe,* 25 I&N Dec. 369, 376 (AAO 2010), in which we held that, "truth is to be determined not by the quantity of evidence alone but by its quality."

[2] The Petitioner previously claimed that the Beneficiary also meets this criterion based on her membership in Media Financial Management as a participant in its Network, Programming, and Streaming committee. On appeal, the Petitioner asserts the Beneficiary's eligibility based on her membership in the organizations above and does not address her membership in Media Financial Management.

her eligibility under this criterion. We find that the Petitioner has not shown that the Beneficiary meets this criterion.

With respect to the Beneficiary's membership in the [redacted], the record contains screenshots from the organization's website, stating that "membership in [redacted] means access to our professional network and resources to help you meet your professional goals." The Petitioner also provided a letter from [redacted] the president of [redacted] who describes the organization as the point of contact for businesses, organizations, and individuals of the [redacted] community in the United States, with a goal of encouraging business activity between California and [redacted] He claims that the organization's members are comprised of "important" members of the creative and business industry, including producers, directors, actors, singers, and business leaders in [redacted] the United States, and elsewhere. He confirms that the Beneficiary has been a member of [redacted] since May 2019, and a board member and treasurer of the organization since October 2019.

Regarding the requirements for board members of the organization, [redacted] claims that "[i]n selecting members for the Board, I make the initial suggestions based on individuals who are leaders in their field. Only the individuals at the top of their field are considered." He asserts that "[t]hese leaders must have some connection to the [redacted] and/or U.S. business or artistic field and through their backgrounds and accomplishments be able to add additional prestige and firm the reputation of the organization." Regarding the requirements for a treasurer of the organization, he asserts that, in addition to meeting the foregoing criteria for board members, a treasurer of [redacted] requires "detailed financial knowledge and acumen." He further indicates that "[t]he selected board members were voted in by all the members present at the annual general meeting" and that the Beneficiary "was voted in as Board member and treasurer at the annual general meeting on October 17, 2019 for a two-year period."

While we have considered [redacted]'s letter, we agree with the Director that his statements are not sufficiently detailed to establish that the [redacted] requires prospective members to demonstrate "outstanding achievements" as a condition of admission. First, although [redacted] indicates that he makes "the initial suggestions" of board members, he does not state who is responsible for selecting the candidates for membership who are voted upon at the annual meeting, their expertise and recognition, and what other factors are considered for selection once an applicant has been suggested by him.

In addition, [redacted] does not sufficiently detail on what basis membership applications are evaluated. For example, it is unclear how an applicant would demonstrate that he or she is "a leader" or "top" in the field. As noted, [redacted] mentions that he considers factors such as "some connection to the [redacted] and/or U.S. business or artistic field and through their backgrounds and accomplishments be able to add additional prestige and firm the reputation of the organization." This statement is broad and is not accompanied by any supporting evidence regarding the membership requirements of [redacted] such as information from its website regarding membership and the application process, or its constitution or bylaws, which may contain information regarding the selection criteria and process for becoming a board member or treasurer. Similarly, regarding the additional stated requirements for a treasurer, having "detailed financial knowledge and acumen" is inherent to treasurers rather than an indication of "outstanding achievements" relative to other working treasurers.

Here, we note the need for corroborating evidence of the membership requirements because the letter from the representative of [redacted] lacks detailed information regarding these requirements and the manner in which membership is granted. The record reflects that the Petitioner was afforded the opportunity to submit the "requirements and criteria used to accept a person for membership" or any other type of relevant evidence in response to a request for evidence prior to the petition's denial. The Board of Immigration Appeals (the Board) has stated: "We not only encourage but require the introduction of corroborative testimonial and documentary evidence, where available." *Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000); *see also*, *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998) (noting that there is a greater need for corroborative evidence when the testimony lacks specificity, detail, or credibility).

Moreover, the Petitioner has not submitted evidence corroborating [redacted]'s claims regarding the qualifications of the other board members at [redacted] or their outstanding achievements. The Petitioner initially submitted screenshots from the [redacted] website, providing biographical information for [redacted] and several board members, including [redacted], [redacted] and [redacted]. Within its response to the Director's request for evidence (RFE) it provided additional biographical statements for some of those board members. For instance, [redacted]'s biographical statement from imdb.com indicates he has more than 20 years of experience in talent and business management. That of [redacted] from linkedin.com indicates he is a change management professional and a university instructor in business administration.[3] While the individual members of the board may be highly qualified, as stated previously, the record does not demonstrate that [redacted] requires outstanding achievements, as judged by recognized national or international experts, to be appointed to its board or the position of treasurer.

Similarly, the Petitioner has also not established that the Beneficiary's membership in [redacted], first asserted within its RFE response, meets the requirements of this criterion. Information provided from the organization's website indicates it operates "to achieve gender equality in film, TV, and digital media to create more opportunities for women." The documentation submitted from [redacted] and information from its website outlines the following membership levels:

- **Student Member/ $50**
  For full time undergraduate and graduate students working toward a degree in media arts:
  Requires 1 letter of recommendation
- **Associates Member/ $85**
  For recent graduates and entry-level professionals who have worked in the entertainment industry for less than three years:
  Requires 1 letter of recommendation
- **Career Member/ $200:** For anyone who has been working in the entertainment industry for at least three years. Requires 1 letter of recommendation
- **Executive Member/ $500:**
  For industry leaders in film, television, or digital media, with advanced experience as industry professionals [applications subject to review by Executive Committee]

[3] Although within its RFE response the Petitioner also provided a biographical statement for songwriter [redacted] from Wikipedia.org and asserted she is a [redacted] board member, that claim is not corroborated by the documentation submitted from the [redacted] website or [redacted]'s biography.

- **Advocate Member: $1500:**
  For industry leaders who are taking their support to the next level. [Acceptance based on Board review.] [4]

In addition, the Petitioner submitted a letter from [redacted] development and communications coordinator for [redacted], who confirms that the Beneficiary "has been an Executive Member with [redacted] since November 25, 2018," and provides that the criteria in selecting an Executive Member require review and approval of the application by the Executive Committee of the Board of Directors, consideration of "the applicant's advanced experience in the film, television, or digital media as an industry professional," experience at "an advanced or executive level," and that the applicant "must be the cream of the crop in their field." [redacted]'s letter does not detail how an applicant would demonstrate that he or she is "the cream of the crop in their field," and we note that the above supporting evidence from the [redacted] website regarding membership and the application process does not describe this criterion for selection to membership in the organization.

The Petitioner did not show that the membership requirements for the [redacted] require outstanding achievements, as judged by recognized national or international experts. The record reflects that the [redacted] focuses on a certain level of experience and the payment of dues, rather than outstanding accomplishments and achievements in the field. Here, the Petitioner did not demonstrate that possessing the stated entertainment industry experience is indicative of outstanding achievements consistent with this regulatory criterion.

Additionally, although [redacted]s letter provides that other Executive Members of [redacted] include [redacted] President of [redacted] and [redacted], the Executive Vice President of [redacted], the fact that Executive Members include top executives of big companies is insufficient to establish that membership in the organization requires outstanding achievements in the field of business.

Further, the Petitioner has not established that recognized national or international experts judge membership in the [redacted] As indicated above, the letter from [redacted] reflects that the Executive Committee of the Board of Directors reviews and approves the membership application. Although the Petitioner submitted articles from www.variety.com and www.thewrap.com reflecting biographical information for board members [redacted], the article from www.thewrap.com indicates that those individuals became board members in January 2020. The record also contains the 2020 [redacted] Annual Report listing the names of the "2020 Board of Directors." This documentation is insufficient to establish the expertise and recognition of those individuals judging the Beneficiary for admission in 2018.

For the reasons discussed above, the Petitioner has not established that the Beneficiary meets this criterion.

[4] See https:/[redacted]/become-a-member/, accessed on August 11, 2021.

III. CONCLUSION

We find that the Petitioner did demonstrate that the Beneficiary meets the criterion relating to membership in associations requiring outstanding achievements. Although the Petitioner claims the Beneficiary's eligibility for an additional criterion on appeal, relating to high salary at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*8*), we need not reach this additional ground. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 214.2(o)(3)(iii)(B), we reserve this issue.[5] Consequently, the Petitioner has not established the Beneficiary's eligibility for the O-1 visa classification as an individual of extraordinary. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

[5] *See INS v. Bagamasbad,* 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).