U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-A-T-A-

DATE: AUG. 15, 2017

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner,[1] a talent agency, seeks to classify the Beneficiary as a foreign national of extraordinary achievement in the motion picture or television productions. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i). This O-1 classification makes nonimmigrant visas available to foreign nationals whose achievements in this industry have been recognized in the field through extensive documentation.

The Director of the California Service Center denied the petition, concluding that the record did not establish, as required, that the Beneficiary met at least three of the six regulatory criteria. Specifically, the Director found that the Petitioner had satisfied only one criterion.

On appeal, the Petitioner submits additional evidence and asserts that the Beneficiary meets two additional criteria and has a record of extraordinary achievement.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified beneficiary who has, with regard to motion picture and television productions, a demonstrated record of extraordinary achievement, 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. The regulation at 8 C.F.R. § 214.2(o)(3)(ii) clarifies, in pertinent part:

> *Extraordinary achievement* with respect to motion picture and television productions, as commonly defined in the industry, means a very high level of accomplishment in the motion picture or television industry evidenced by a degree of skill and recognition

[1] While the Petitioner listed its name as [redacted] on the petition and that name appears on its letterhead, its legal name appears to be [redacted] *See* California Secretary of State Business Search, https://businesssearch.sos.ca.gov/CBS/Detail (accessed on August 10, 2017).

> significantly above that ordinarily encountered to the extent that the person is recognized as outstanding, notable, or leading in the motion picture or television field.

The regulation at 8 C.F.R. § 214.2(o)(3)(v) sets forth a multi-part analysis. First, a petitioner can demonstrate the beneficiary's recognition in the field through documentation that the beneficiary has been nominated for, or is the recipient of, significant national or international awards or prizes in the particular field such as an Academy Award, an Emmy, a Grammy, or a Director's Guild Award. 8 C.F.R. § 214.2(o)(3)(v)(A). If a petitioner does not provide this information, then it must satisfy at least three of the six categories of evidence listed at 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*)-(*6*).

The submission of documents relating to at least three criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994). In addition, we have held that, "truth is to be determined not by the quantity of evidence alone but by its quality." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). That decision explains that, pursuant to the preponderance of the evidence standard, we "must 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." *Id.* Accordingly, where a petitioner provides qualifying evidence under at least three criteria, we will determine whether the totality of the record shows eligibility under section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(1)(ii).

II. ANALYSIS

The Beneficiary is an actor, for whom the Petitioner filed the petition as an agent who seeks to represent him. It does not assert, nor does the record reflect, that he has been nominated for, or is the recipient of, significant national or international awards or prizes in his particular field. 8 C.F.R. § 214.2(o)(3)(v)(A). Accordingly, the Petitioner must satisfy at least three of the six regulatory criteria set forth at 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*)-(*6*). The Director found that the Beneficiary has received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field in which he is engaged, and thus, he satisfies the criterion under 8 C.F.R. § 214.2(o)(3)(v)(B)(*5*). The record contains favorable testimonials supporting that determination.

On appeal, the Petitioner contends that because the Beneficiary has received recognition for achievements, he must therefore meet the two criteria relating to the nature of his roles. 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*), (*3*). While evidence may relate to more than one criterion, each criterion has its own requirements and we will not presume that satisfying one criterion necessarily demonstrates that a beneficiary meets another criterion. We address below those criteria that the Petitioner has advanced or for which it has presented relevant material, and conclude that it has not met its burden.

> *Evidence that the alien has performed, and will perform, services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications contracts, or endorsements.* 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*).

The Director determined that the Beneficiary has previously performed in a qualifying role for a production or event with the necessary reputation. She, however, concluded that the Petitioner had not offered the type of evidence specified in the regulation to show that the productions or events for which the Beneficiary will perform services as a lead or starring participant enjoy a distinguished reputation. On appeal, the Petitioner notes that it previously submitted several "deal memos" for upcoming productions in which the Beneficiary would perform as a lead actor, but focuses on one deal memo that postdates the filing of the petition. We will consider all of the upcoming productions below.

The initial deal memos for and ' later changed to ' do not corroborate that the Beneficiary will perform services for a production or event with a distinguished reputation. chief executive officer of is the creator and producer of the first film. The record contains no information about or

is producing the second movie, which will direct. The record does contain publicity materials for While the documents confirm that the Beneficiary will perform as a lead or starring participant in the movie, they do not contain information suggesting the film has or is expected to have a distinguished reputation. For example, they do not remark on the past successes of the director, production company, or actors, or otherwise remark on the pre-release expectations for the film. is the director of " " which won at the and which won at the His page lists other film festival honors. The record, however, includes no evidence about the prestige of these events or his recognition in general that might support a finding that his future projects are anticipated at such a level that they can be said to enjoy a distinguished reputation.

The Petitioner's subsequent submissions also do not confirm the reputation of ' First, the deal memo for this project is dated after the filing of the petition. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Regardless, the record lacks evidence of the reputation of the film or those associated with it. On appeal, the Petitioner contends that the certificate from the and documentation from the "show the distinguished reputation of the film." that the production company completed, however, does not contain information suggesting that obtaining signature producer status from involves any

assessment by that organization beyond completion of the necessary paperwork. Notably, the form indicates that there was no licensing or distribution agreement for the project yet. Similarly, while the [redacted] issued a "Documentation of Registration" for the material, the Petitioner has not verified that such registration involves an evaluation of the quality of the script rather than a registry of original work for protection from unauthorized usage. For all of the above reasons, it has not demonstrated that the productions and events for which the Beneficiary will participate in a lead or starring role enjoy a distinguished reputation.

> *Evidence that the alien has performed, and will perform, in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.* 8 C.F.R. § 214.2(o)(3)(v)(B)(*3*).

The record supports the Director's determination that the Petitioner has not sufficiently documented or explained how the Beneficiary would perform in a lead, starring, or critical role for an organization or establishment. The appeal focuses on his participation in productions and events. This criterion, however, is separate from the previously discussed one requiring evidence of his performance of services as a lead or starring participant in a production or event. 8 C.F.R. § 214.2(o)(3)(v)(B)(*1*). Accordingly, participating at the requisite level *for a production or event* is not necessarily the same as performing in a qualifying role *for an organization or establishment*. Even if we were to conclude that [redacted] reputation corroborates that "[redacted] will be a production with a distinguished reputation, the record does not verify that the Beneficiary's lead or starring participation in the movie constitutes a lead, starring, or critical role for the production company. For example, the Petitioner did not illustrate that he will perform in a significant number of [redacted] films or that the company has prominently featured its affiliation with him either as part of its promotional campaign or to obtain funding. Similarly, the Petitioner has not adequately shown that the Beneficiary has performed in a lead, starring, or critical role for the businesses whose products he has advertised. He also has not sufficiently demonstrated a qualifying role with the production companies of the films in which he appeared or for which he coordinated stunts. For all of the above reasons, the Petitioner has not satisfied this criterion.

III. CONCLUSION

The Petitioner has not demonstrated that the Beneficiary satisfies at least three of the six regulatory criteria to show extraordinary achievement in the motion picture or television productions. Accordingly, it has not submitted the requisite initial evidence for the classification sought.

ORDER: The appeal is dismissed.

Cite as *Matter of C-A-T-A-*, ID# 478483 (AAO Aug. 15, 2017)