U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35451211

Date: JAN. 8, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner, a lawyer, seeks classification as an individual of extraordinary ability. *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 Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal under 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)(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. These individuals must seek to enter the United States to continue work in the area of extraordinary ability, and their entry into the United States will substantially benefit 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 their achievements in the field through a one-time achievement in the form of a major, internationally recognized award. Or the petitioner can submit evidence that meets at least three of the ten criteria 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. If those standards do not readily apply to the individual's occupation, then the regulation at 8 C.F.R. § 204.5(h)(4) allows the submission of comparable evidence.

Once a petitioner has met the initial evidence requirements, the next step is a final merits determination, in which we 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).

II. ANALYSIS

The Petitioner practiced law in Egypt from 2014 until February 2023, when he entered the United States as a B-2 nonimmigrant visitor.

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 initially claimed to have satisfied four of these criteria, summarized below:

- (ii), Membership in associations that require outstanding achievements;
- (v), Original contributions of major significance;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services.

The Director concluded that the Petitioner had not satisfied any of the claimed criteria. On appeal, the Petitioner asserts that he has satisfied all four of the claimed criteria.

Upon review of the record, we agree with the Director that the Petitioner has not satisfied at least three criteria.

1. Membership

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for documentation of the individual'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 Petitioner documented his membership in the Egyptian Bar Association (EBA), and stated: "This association is renowned for its rigorous standards, demanding outstanding achievement from its members in the legal field." The Petitioner did not submit any materials from the EBA describing its membership requirements. The Petitioner submitted a printout of an online article, "Lawyering in Egypt: Regulation and Reform," which indicated that "Bar Association membership is a condition for practicing law," and that "many [members] are not practicing law at all." The article also indicates that "the levels of registration relate to the level of court before which a lawyer appears." The Petitioner's membership documents identify his membership level as "Appellate."

In a request for evidence (RFE), the Director noted that EBA membership "appears to be a requirement [for] every lawyer in Egypt," and that the Petitioner had "submitted no evidence that the association

requires outstanding achievements of its members as judged by recognized national or international experts in their disciplines or fields." The Director requested evidence of the EBA's membership requirements and documentation of "the qualifications required of the reviewers" who judge membership applications.

In response, the Petitioner made various assertions about the EBA's high standards. Statements in a brief have no evidentiary weight. *See Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998).

The Petitioner states that Egypt's Law 17 of 1983 "substantiate[s] the significance of this membership." A translation of that law's text lists the conditions "for registration in the general registry":

- One must be a national and permanent resident of Egypt with "full civil capacity";
- A law degree;
- A "good reputation" with no prior "disciplinary judgments" or felony convictions; and
- Payment of annual fees.

The statute refers to "the regulations of the Bar Association" but does not quote or summarize those regulations. Article 13 provides that "[n]o one shall be registered in the Bar Association except after obtaining the certificate specified in Article (230) of this Law and passing a written exam." The submitted translation does not include Article 230.

The Petitioner did not explain how these requirements amount to outstanding achievements. The Petitioner identified no statutory clause indicating that candidates for membership in the EBA are judged by recognized national or international experts.

The Director determined that membership in the EBA is mandatory for "all lawyers practicing law in Egypt," rather than a hallmark of outstanding achievements, and therefore is not a qualifying membership under 8 C.F.R. § 204.5(h)(3)(ii).

On appeal, the Petitioner states:

> While it is true that all practicing lawyers in Egypt are required to be members of the Egyptian Bar Association, the specific membership held by the Petitioner is reserved only for individuals who have demonstrated extraordinary legal expertise and made outstanding contributions to the legal profession. It is awarded based on rigorous evaluation of a candidate's professional achievements, ethical standards, and impact within the legal community.
>
> The Petitioner's membership was obtained through a highly selective process, judged by a panel of senior members and recognized national legal experts. The selection criteria include: extraordinary success in high-stakes cases or made notable contributions to legal scholarship; candidates for these elevated positions are required to have an impeccable track record of ethical practice and adherence to the highest standards of the legal profession; endorsements from other national legal experts and respected figures in the judiciary further confirm the Petitioner's exceptional qualifications.

As noted above, statements in a brief are not evidence. The Petitioner, on appeal, does not identify or cite to any record evidence that supports the above claims.

The Egyptian statute that the Petitioner submitted in response to the RFE lists the requirements for "admission to plead before the Courts of Appeal," which appears to correlate to the "Appellate" designation on the Petitioner's membership card. Article 35 of the statute reads, in part: "To be registered before the Courts of Appeal, a lawyer must have actively practiced law for at least five years." We do not consider length of experience to be an outstanding achievement. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual.

Article 36 provides: "Applications for registration before the Courts of Appeal are submitted to the acceptance committee stipulated in Article (16)." The printout in the record does not include Article 16. Therefore, the Petitioner has not corroborated any requirement beyond five years of experience.

The Petitioner submits new evidence on appeal, including information about "Pro Bono Practices and Opportunities in Egypt" and a statement from the president of the Bar Association of Egypt regarding the humanitarian situation in Gaza. The documents do not address the EBA's membership requirements, and the Petitioner has not established that they are material to the requirements of 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner has not met his burden of proof to meet the criterion's regulatory requirements.

2. Leading or Critical Role

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

For a leading role, a petitioner must establish that the person is (or was) a leader within the organization or establishment or a division or department thereof. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1). For a critical role, a petitioner must establish that the person 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 or department of the organization or establishment. *Id.*

The Petitioner stated that he "has performed in a leading role as a freelance lawyer, demonstrating expertise in Islamic Laws, Inheritance laws, and Civil Law, while actively representing clients in court proceedings and establishing valuable connections within the legal community." The Petitioner submitted copies of powers of attorney and letters from clients, indicating that he provided legal services on matters such as inheritance, eviction of a delinquent tenant, and a wrongful termination suit.

The letters do not identify any organization or establishment with a distinguished reputation, and do not explain how the Petitioner performed in a leading or critical role for such entities.

In the RFE, the Director acknowledged the submitted letters, but observed that "[i]ndividuals are not organizations or establishments," and that the letters do not identify any organization or establishment for which the Petitioner performed in a leading or critical role. The Director asked the Petitioner for evidence to identify the relevant organizations or establishments, and to establish their distinguished reputations.

In response, the Petitioner repeated prior assertions but did not submit any new evidence or information relating to the criterion.

In the denial notice, the Director concluded that the Petitioner did "not identify or submit evidence of any organization or establishment possessing a distinguished reputation" for which the Petitioner performed in a leading or critical role.

On appeal, the Petitioner asserts that he has had a successful legal career, but he does not identify any organization or establishment for which he performed in a leading or critical role. The Petitioner submits additional letters from satisfied clients, but does not establish that the new letters are material to the appeal. The letters identify the employers of some of the clients but do not indicate or establish that the Petitioner performed in a leading or critical role for those employers.

The Petitioner has not met his burden of proof to meet the criterion's regulatory requirements.

3. High Salary or Remuneration

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for evidence that the individual has commanded a high salary or other significantly high remuneration for services in relation to others in the field.

The Director concluded that the Petitioner's evidence "does not allow for an appropriate basis for comparison in determining a high salary 'in relation to others in the field.'"

On appeal, the Petitioner asserts that he submitted evidence to satisfy this criterion, and that the Director erred in concluding that the evidence was not sufficient. But the Petitioner does not offer any specific claims or arguments or otherwise discuss this issue any further. Where an appellant addresses an issue only "in a perfunctory manner, unaccompanied by some effort at developed argumentation," that issue is deemed waived. *See Tolbert v. Queens Coll.*, 242 F.3d 58, 75 (2d Cir. 2001) (quoting *United States v. Zannino*, 895 F.2d 1, 17 (1st Cir.), cert. denied, 494 U.S. 1082, 110 S.Ct. 1814, 108 L.Ed.2d 944 (1990)).

In light of the above conclusions, the Petitioner cannot meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). Detailed discussion of the remaining criterion at 8 C.F.R. § 204.5(h)(3)(v), relating to original contributions of major significance, cannot change the outcome of this appeal. Therefore, we reserve this issue.[1]

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten lesser criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that 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.

[1] *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); *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).

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. U.S. Citizenship and Immigration Services 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 a degree of recognition that indicates the required sustained national or international acclaim and demonstrates 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 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 and 8 C.F.R. § 204.5(h)(2). The Petitioner has submitted letters from satisfied clients, but has not shown that his work on these cases has brought him the very high degree of recognition that the statute and regulations require.

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. We will therefore dismiss the appeal.

ORDER: The appeal is dismissed.