U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35478457

Date: JAN. 10, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner is a market research analyst and communication specialist who seeks classification as an alien 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 Nebraska Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding the record did not establish that the Petitioner had a major, internationally recognized award, nor did she demonstrate that she met at least three of the ten regulatory criteria. 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 to U.S. Citizenship and Immigration Services (USCIS) by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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.

We adopt and affirm the Director's ultimate adverse determination. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below "is not only common practice, but universally accepted").

The Petitioner earned her U.S. master's degree in corporate communications in 2023. She has recently started her own company. The Petitioner's arguments in the appeal brief largely restate what she claimed before the Director, but the Director determined were insufficient to satisfy any of the regulatory criteria.

For instance, relating to her student award from an institution of higher learning under the first criterion ("Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor" at 8 C.F.R. § 204.5(h)(3)(i)), the Petitioner continues to argue that her award's national recognition derives from the issuing institution's reputation. Even though the Petitioner attempts to cite to the USCIS Policy Manual to support her contention, agency policy instead appears to cut against her claims. The policy states:

> While many scholastic awards do not have the requisite level of recognition, there may be some that are nationally or internationally recognized as awards for excellence such that they may satisfy the requirements of this criterion.
>
> For example, an award available only to persons within a single locality, employer, or school may have little national or international recognition, while an award open to members of a well-known national institution (including an R1 or R2 doctoral university[]) or professional organization may be nationally recognized.

See generally 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policymanual. National and international recognition generally does not result from the issuing authority, but through the awareness of the accolade in the field at the national or international level. As represented within this case, the claimed accolade falls within an area of scholastic awards that primarily do not derive national or international recognition from the issuing entity.

While the institution of higher learning the Petitioner claims under this criterion is known for its programs, it is not on par with R1 and R2 doctoral universities in terms of broad academic reputation. But even if that were not the case, any well-known institution such as the R1 and R2 examples in USCIS policy should normally generate national or international recognition through the awareness of its prize or award in the eyes of the field. This recognition should be evident through specific means; for example, but not limited to, national or international-level media coverage.

And it is within the eyes of the field where this claim falls short as the Petitioner did not offer probative evidence the award is widely recognized outside the issuing institution. Despite the Petitioner's claims relating to the college's regional rankings, she offers no substantive material relating to the award itself to demonstrate it is nationally or internationally recognized in the field.

We briefly explain why the Petitioner's claims under the contributions criterion at 8 C.F.R. § 204.5(h)(3)(v) fall short. The Petitioner claimed her scholarly work—her master's thesis dated in May of 2023—provided the basis for her claims. On appeal, she identifies the letter from an industry expert as support for her eligibility under this criterion.

The author repeatedly offers conceptual benefits resulting from the Petitioner's thesis such as it "presents groundbreaking research that has major implications for the field of corporate communications," "demonstrates a nuanced understanding of how strategic communication and investor relations can mitigate stock volatility, enhance shareholder value, and ensure the fiduciary responsibilities are maintained during critical transitional periods," "underscores the transformative impact of strategic communication on" various aspects, her "insights enrich our understanding of privatization dynamics and offer a practical road map for corporations going through such critical transitions," and her findings "represent an innovative approach to validating the IR function's role in stabilizing economies at large."

While the author offers a more concrete effect relating to the thesis in stating the Petitioner's "termination of employee reviews on platforms such as Glassdoor and Indeed revealed the internal impact of privatization on employee morale and perception," and she indicated her firm has applied a

small portion of the factors within the thesis with favorable outcomes, it remains that this falls significantly short of the Petitioner demonstrating her work has sufficiently impacted the field. Without recognizing it, the author sums up the effect of the Petitioner's 2023 thesis stating that "[i]t paves the way for the development of standardized operating procedures and best practices in corporate communication and investor relations, especially in the context of privatization. This has the potential to influence regulatory frameworks and corporate governance standards globally."

That the Petitioner's work will provide a prospective benefit to the United States as a permanent resident is a separate requirement under the Act. *See* section 203(b)(1)(A)(iii) of the Act. While the evidence shows promise in the Petitioner's work, it does not establish how her work already qualifies as a contribution of major significance in the field, rather than prospective, potential impacts. The significant nature of her work has yet to be determined or measured. This regulatory criterion requires petitioners to show they have already made a significant impact in their field. A Petitioner must establish the elements for the approval of the petition at the time of filing. 8 C.F.R. § 103.2(b)(1), (12). A petition may not be approved if the Petitioner was not qualified at the priority date but expects to become eligible at a subsequent time. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). This evidence does not establish that, as of the priority date, the Petitioner had contributed to her field in a significant manner as required by the regulation.

We further note the Petitioner concedes that her submitted evidence does not meet the membership criterion at 8 C.F.R. § 204.5(h)(3)(ii), the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), or the display of her work at artistic venues at 8 C.F.R. § 204.5(h)(3)(vii). She has therefore waived these claims on appeal. *Matter Khan*, 28 I&N Dec. 850, 852 n.4 (BIA 2024). Because we detailed above why she does not meet two of the previously claimed criteria, and she has abandoned three additional requirements on appeal, what's remaining are only two more criteria (authorship of scholarly articles and performing in a leading or critical role).

Because only two requirements remain and she cannot meet at least three criteria, it is unnecessary that we make a decision on those final two regulatory requirements because she cannot numerically meet the required number of criteria. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve the remaining issues. *Patel v. Garland*, 596 U.S. 328, 332 (2022) (citing *INS v. Bagamasbad*, 429 U.S. 24, 25–26 (1976) (finding agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision)); *see also Matter of Larios-Gutierrez De Pablo & Pablo-Larios*, 28 I&N Dec. 868, 877 n.8 (BIA 2024) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. 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.