U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35825181

Date: JAN. 16, 2025

Appeal of Nebraska Service Center Decision

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

The Petitioner describes himself as a "social entrepreneur" seeking to help artisans in a Pakastani desert region escape poverty. He requests classification under the employment-based, first-preference (EB-1) immigrant visa category as a noncitizen with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners for U.S. permanent residence in this category must demonstrate "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(ii) of the Act.

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner met one of ten initial evidentiary requirements – two less than needed for a final merits determination. *See* 8 C.F.R. § 204.5(h)(3). On appeal, the Petitioner asserts that he satisfied five additional criteria by submitting evidence of his:

- Receipt of lesser nationally or internationally recognized awards for excellence in his field;
- Membership in associations requiring outstanding achievements as judged by recognized experts;
- Status as the subject of published materials;
- Work's display at artistic exhibitions or showcases; and
- Performance in leading or critical roles for organizations with distinguished reputations.

See 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (vii), (viii).

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that he has not satisfied the requisite number of evidentiary requirements. We will therefore dismiss the appeal.

I. LAW

To qualify as a noncitizen with extraordinary ability, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Through their work, would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Evidence of extraordinary ability must demonstrate a noncitizen's receipt of either "a major, international recognized award" or satisfaction of at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3)(i-x).[1]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, U.S. Citizenship and Immigration Services (USCIS) must then make a final merits determination. To merit approval, the record – as a whole – must establish a petitioner's sustained national or international acclaim and recognized achievements placing them among the small percentage at their field's very top. *See Amin v. Mayorkas,* 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Petitioner and His Field

The record shows that the Petitioner, a Pakistani native and citizen, earned an economics and finance degree from a university in his home country. He later received a diploma in entrepreneurship and certificates in digital marketing and business analytics. About 15 years ago, he founded a nonprofit social enterprise that sells and promotes products made by women artisans in the Pakistani desert region. By internationally marketing their handcrafted carpets and other handiworks, he says the enterprise not only raises the artisans' standards of living but also fosters cultural exchanges and fair trade.

After coming to the United States in 2023, the Petitioner established a U.S. nonprofit corporation to expand his social enterprise. He states: "The enterprise's dedication to showcasing . . . cultural heritage, fostering cultural exchange, promoting fair trade, and nurturing intercultural understanding will undoubtedly enrich the cultural landscape of both nations and contribute positively to the United States."

[1] If an evidentiary criterion does not "readily apply" to a petitioner's occupation, they may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

The record does not indicate – nor does the Petitioner claim – his receipt of a major internationally recognized award. He must therefore meet at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director's finding that the Petitioner submitted evidence that he judged others' work in the field. *See* 8 C.F.R. § 204.5(h)(3)(iv). We will next review the Director's findings regarding the other evidentiary criteria that the Petitioner claims to have met. To satisfy these requirements, his evidence must objectively meet the parameters of the applicable regulations. *See Kazarian v. USCIS*, 596 F.3d 1115, 1121 (9th Cir. 2010) (forbidding USCIS from "unilaterally impos[ing] novel substantive or evidentiary requirements beyond those set forth at 8 C.F.R. § 204.5"); *see generally* 6 *USCIS Policy Manual* F.(2)(B).

B. Lesser National or International Awards

This evidentiary criterion requires "[d]ocumentation of the [noncitizen]'s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." 8 C.F.R. § 204.5(h)(3)(i).

When adjudicating this requirement, USCIS first determines if a petitioner – as opposed, for example, to their employer – received prizes or awards. 6 *USCIS Policy Manual* F.(2)(B)(1), Criterion 1. If so, the Agency then determines whether the awards honor excellence in a relevant field and generated national or international recognition. *Id.*

The Petitioner submitted evidence of his selections as a finalist in 2021 for two awards: a "founder of the year" award from a regional intergovernmental association; and a similar entrepreneurial prize from a United Nations-based forum. The Director concluded that these materials do not meet the evidentiary requirement because they demonstrate neither the Petitioner's receipt of an award nor national or international recognition of his finalist selections.

On appeal, the Petitioner concedes that he did not receive the awards for which he was nominated. But he asserts that proof of his finalist selections meet the evidentiary criterion. He states that the regional association nominated him in a "competitive process that included a jury of international experts and public voting across [the association]'s member nations." He argues that his selections by both groups "highlight his excellence as a social entrepreneur."

The record, however, supports the Director's findings. First, the Petitioner's evidence does not establish that his selections as a finalist constitute awards. A federal court similarly held that an equestrian coach did not receive an award where his team placed fifth and ninth in competitions and qualified to compete in another event. *See Guida v. Miller*, No. 20-cv-01471-LB, 2021 WL 568850, *8 (N.D. Cal. Feb. 16, 2021).

Second, the record lacks evidence that the Petitioner's finalist selections received national or international recognition. Even if the organizations that offered the awards are nationally or internationally recognized, USCIS must focus on the award, not its issuer. *Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 182 (D.N.J. 2021) (quoting *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 136 (D.D.C. 2013)) (requiring evidence showing "how a larger audience viewed [the] awards"). The Director correctly

found insufficient evidence of national or international recognition of the Petitioner's finalist selections.

On appeal, the Petitioner submits evidence of his selection as a regional finalist for another business start-up award. This selection in June 2024, however, post-dates the petition's filing in October 2023. The evidence therefore does not satisfy the evidentiary requirement. *See* 8 C.F.R. § 103.2(b)(1) (requiring a petitioner to demonstrate eligibility "at the time of filing the benefit request"). Even if we considered the appellate evidence, the material would not establish national or international recognition of the Petitioner's latest selection as a finalist.

The Petitioner has not demonstrated his receipt of nationally or internationally recognized awards for excellence in his field. We will therefore affirm the Director's finding regarding this evidentiary requirement.

C. Membership in Associations

To meet this criterion, a petitioner must submit "[d]ocumentation of [their] 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. § 204.5(h)(3)(ii).

The Petitioner submitted copies of election results from two Pakistani business groups. One document states his election as a director of a group's business council in 2014. The other document identifies him as a "Newly Elected Associate Member" of the other group in 2018.

As the Director found, the record lacks evidence that either organization required outstanding achievements of its members, as judged by national or international experts. The election results therefore do not meet this evidentiary requirement.

The Petitioner also submitted evidence of his completion of a 14-week program for start-up businesses in 2021. He contends that, by completing the program, he became an "alumnus" of the organization that offered the course, entitling him to additional organizational information and discounts.

Even assuming that the Petitioner gained membership in the organization by completing its program, the Director correctly found insufficient evidence that the organization requires outstanding achievements of its members. The Petitioner argues that "[t]his membership was awarded after successful completion of a highly selective program, demonstrating my outstanding achievements." But the evidence does not show that his "membership" required outstanding achievements. The online information indicates that program participants had to complete the organization's proprietary assessment, "a test that identifies people with the raw skills and personality traits conducive to entrepreneurship." When selecting participants, the organization considers their assessment results, written applications, professional backgrounds and experience, and input about them from local leaders. The online information states that "every applicant is judged in comparison to the other applicants in their semester." Thus, contrary to the Petitioner's claim, the record does not demonstrate that the organization requires outstanding achievements of its members.

The Director also correctly found insufficient evidence that national or international experts judged the organization's members. In response to the Director's RFE request, the Petitioner stated that "esteemed national or international experts" evaluated the program's participants. But the online information does not corroborate his statement, as the information does not identify members of the group's "Admission Team" or provide their qualifications. The Petitioner argues that the program's project director is an expert, pointing to evidence that he has more than 30 years of experience as an investment firm head and "serial entrepreneur." The evidence, however, does not establish the project director's receipt of national or international recognition as an expert in his field or his personal judgment of program applicants for membership status.

For the foregoing reasons, the record lacks evidence of the Petitioner's membership in associations in the field requiring outstanding achievements of their members, as judged by recognized national or international experts. We will therefore affirm the Director's finding regarding this evidentiary criterion.

D. Published Material About the Petitioner

This criterion requires "[p]ublished material about the [noncitizen] in professional or major trade publications or other major media, relating to [their] work in the field for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iii). "Such evidence shall include the title, date, and author of the material, and any necessary translation." *Id.*

When adjudicating this requirement, USCIS first determines whether published material relates to a petitioner and their specific work in their field. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1), Criterion 3. If so, the Agency then determines whether a publication qualifies as a professional or major trade publication, or other major media. *Id.* When evaluating publications and media, relevant factors include: for professional and major trade publications, the intended audience; and, for major trade publications and other major media, the relative circulation, readership, or viewership. *Id.*

The Petitioner submitted copies of a November 2022 Pakistani newspaper article about his social enterprise in the desert region. The copies include both the article's online and print versions.

As the Director found, the record does not establish the newspaper or its website as a professional or major trade publication, or other major medium. In an effort to establish the publication as a major medium, the Petitioner provided a copy of an online Wikipedia entry describing the newspaper as Pakistan's third-largest Urdu daily. But, contrary to USCIS policy, the Wikipedia information does not provide the circulation, readership, or viewership of the newspaper or its online site or compare the data to other major media. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1), Criterion 3. Moreover, because any Internet user can edit Wikipedia entries, the site's information is unreliable. *See Matter of L-A-C-*, 26 I&N Dec. 516, 526-27 (BIA 2015) (noting that "Wikipedia articles lack indicia of reliability and warrant very little probative weight in immigration proceedings"); *see also Badasa v. Mukasey*, 540 F.3d 909, 910 (8th Cir. 2008).

On appeal, the Petitioner submits additional information about the newspaper. But the Director's RFE previously requested such evidence, including of the publication's "circulation (online and/or in print) and comparative circulation data of major publications." The Director's RFE provided the Petitioner

with notice of the requested evidence and a reasonable opportunity to submit it. He has not demonstrated or asserted the evidence's unavailability at that time. We therefore decline to consider the additional evidence on appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988).

The Petitioner also submitted a copy of a 2014 article in another Pakistani newspaper. The article mentions the Petitioner's name, listing his attendance at a diplomatic meeting. But the article does not discuss his work in his field. *See* 8 C.F.R. § 204.5(h)(3)(iii) (requiring published material "relating to the [noncitizen]'s work in the field for which classification is sought"); *see also* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3 ("The published material should be about the person, relating to the person's work in the field.") The article therefore does not satisfy this evidentiary requirement.

The Petitioner further provided copies of articles about the Petitioner's social enterprise that appeared in a Pakistani writers' club publication. In his RFE response, however, the Petitioner agreed that the record did not demonstrate the publication's status as a professional or major trade journal, or other major media. Thus, the writers' club article also does not meet the evidentiary criterion.

The Petitioner has not submitted published material about himself in professional or major trade publications or other major media, relating to his work in the field. We will therefore affirm the Director's finding regarding this evidentiary requirement.

E. Work Displayed at Artistic Exhibitions or Showcases

To meet this evidentiary criterion, a petitioner must submit "[e]vidence of the display of [their] work in the field at artistic exhibitions or showcases." 8 C.F.R. § 204.5(h)(3)(vii).

USCIS first determines whether displayed materials constitute a petitioner's work product. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criteria 7. Second, the Agency considers whether the work's display occurred at artistic exhibitions or showcases. *Id.*

The Petitioner submitted evidence that his finalist selections for the awards from the regional intergovernmental association and the United Nations-based forum included public displays of carpets and other handicrafts from his social enterprise. The record, however, indicates that the displayed work consists of items that the desert artisans made. The criterion requires "display of the [*noncitizen*]'*s* work." 8 C.F.R. § 204.5(h)(3)(vii) (emphasis added); *see also* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 7 ("The description of this type of evidence in the regulation provides that the work must be the person's work product.") Thus, contrary to the evidentiary criterion, the Petitioner's evidence does not demonstrate display of *his* work.

On appeal, the Petitioner submits evidence of additional exhibitions of the enterprise's carpets and handicrafts in Pakistan and the United States. He states that the displays reflect the "artistic and cultural significance of the handcrafted carpets and other products created by the women artisans."

The additional evidence, however, also indicates exhibitions of the artisans' work, not the Petitioner's. The materials therefore do not meet the evidentiary criterion.

The Petitioner has not submitted evidence of the display of his work in the field at artistic exhibitions or showcases. We will therefore affirm the Director's finding regarding this evidentiary requirement.

F. Remaining Issue

The Petitioner has met one evidentiary criterion and claims to meet only one more. Thus, contrary to this category's requirement, he cannot meet the requisite three evidentiary criteria. *See* 8 C.F.R. § 204.5(h)(3). We therefore need not reach and hereby reserve consideration of his appellate argument regarding evidence of his purported performance in leading or critical roles for organizations with distinguished reputations under 8 C.F.R. § 204.5(h)(3)(viii). *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

III. CONCLUSION

The Petitioner has not demonstrated his satisfaction of the requisite number of evidentiary criteria for the requested immigrant visa category. We will therefore affirm the petition's denial.

ORDER: The appeal is dismissed.