U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38905804

Date: JUL. 7, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a project management specialist, seeks classification as an alien of extraordinary ability. 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 demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. Service Center Operations (SCOPS) denied the petition, concluding that the record did not satisfy at least three of the ten initial evidentiary criteria as set forth in 8 C.F.R. § 204.5(h)(3)(i)-(x). We dismissed a subsequent appeal. This matter is now before us on a motion to reopen. Upon review, we will dismiss the motion.

A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant a motion that meets these requirements and establishes eligibility for the benefit sought. *Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (holding that a party seeking reopening bears a heavy burden of proving that the new evidence would likely change the outcome). The Petitioner must establish his eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if: (i) the alien has 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; (ii) the alien seeks to enter this country to continue work in the area of extraordinary ability; and (iii) the alien's entry will substantially benefit prospectively the United States.

"Extraordinary ability" refers only to those 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 regulation at 8 C.F.R. § 204.5(h)(3) sets forth a two-part analysis. First, an alien can show sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that satisfies at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, published material in certain media, and scholarly articles).[1]

[1] The Petitioner did not claim, and the record does not show, that he has a one-time achievement. 8 C.F.R. § 204.5(h)(3).

Where a petitioner meets these initial regulatory evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record demonstrates sustained national or international acclaim and 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 analysis, first determining whether the documentation satisfies the required number of regulatory criteria and then conducting a final merits determination).

The record reflects that the Petitioner claimed eligibility for three regulatory criteria before SCOPS: that he has received a lesser nationally or internationally recognized award for excellence in his field; made original contributions of major significance in the field; and performed a leading or critical role for an organization with a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(i), (v), and (viii). SCOPS concluded that the Petitioner's documents did not satisfy any of the three regulatory criteria.

In our decision dismissing the appeal, we determined that the record lacked evidence of the Petitioner's "receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor," and it thus did not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(i). We considered the only documentary evidence of what he claimed was an award, namely a 2022 "Letter of Recognition" from a mayor of a city [redacted] in Kazakhstan for the Petitioner's services overseeing the safety of a hospital during unrest and other documents (such as support letters praising his work performance), and concluded that the record did not satisfy the criterion because the Petitioner did not provide any probative evidence that the receipt of the mayoral letter was "nationally or internationally recognized" as regulation requires.[2] *Id.* Because the Petitioner's inability to meet this initial evidentiary threshold was dispositive of the appeal (as it meant he could not meet at least three of the ten regulatory criteria), we did not reach arguments as to the remaining two criteria he also claimed, and dismissed the appeal.

On motion, he submits a 2022 sunqarnews.com online article written by A-A-[3] praising the Petitioner's work ethic, services, and receipt of the mayor's "letter of gratitude" for "conscientious performance of his duties and selflessness" during the January 2022 unrest, and stating that the letter shows the mayor was "very pleased with [the Petitioner]."[4] He also submits evidence that this same online article was posted on three other online outlets, comprising qazaqscience.kz, jarshy.com, jurtmedia.kz, and asserts that the mayoral letter, particularly when considered with the above online coverage of it, now satisfies the evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(i). We disagree.

The recognition letter "express[es]" the then city mayor's "gratitude to [the Petitioner] for the conscientious performance of [his] official duties and selflessness" during the January 2022 events and wishes him and his family's wellbeing, health, and future success in his work. As we noted in our prior decision dismissing the appeal, the Petitioner did not claim or provide any probative evidence (such as evidence that this correspondence was publicly awarded or reported on) that may inform the extent of its claimed recognition beyond the two individuals. While we acknowledge that the letter was written, signed, and given by an official of a large city for the Petitioner's job performance during

[2] SCOPS found that the record lacked evidence that the mayoral letter was an award *for excellence* in the field of endeavor. Although we concur with this determination, we did not reach this aspect of the regulatory criterion.

[3] We use initials to protect individuals' privacy.

[4] The article refers to a "letter of gratitude" rather than a "letter of recognition." The Petitioner does not clarify if they are the same letter but appears to interchangeably use both terms to refer to the same mayoral letter. The record does not contain any other letter from a mayor besides the letter of recognition.

a time of unrest, the record still lacks evidence that such letter is an award recognized nationally in Kazakhstan beyond city locality or internationally, or that the letter is awarded to individuals at the highest level in their field on a national or international level.

The Petitioner's counsel in the motion brief asserts that the mayoral letter and the Petitioner's related accomplishments "have been widely reported in national and independent Kazakhstani media outlet" and the above-referenced 2022 article published by four different websites establishes that he received a formal award of national recognition for excellence. However, the Petitioner does not identify or submit any relevant probative evidence that any of the websites that posted the same article was a national media outlet or that his story was in fact "widely reported." Counsel's assertions are not evidence. *See, e.g.*, *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citation omitted). Counsel's statements must be supported with independent evidence, which is deficient here. Even if the websites were national outlets, such claimed online media stature does not necessarily prove that a mayor's letter of appreciation is inherently nationally recognized such that it may satisfy the evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(i). Further, the 2022 article itself does not address the claimed national recognition or reputation of such letter. He does not otherwise provide any relevant new assertion or document, and the evidence on motion therefore does not show that the mayoral letter constitutes a nationally or internationally recognized award. Thus, the Petitioner has not overcome our prior determination that the evidence of record did not satisfy the dispositive regulatory criterion as set forth in 8 C.F.R. § 204.5(h)(3)(i) to warrant reopening.[5] 8 C.F.R. § 103.5(a)(2).

ORDER: The motion to reopen is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.

[5] Although not address in our appeal decision, we agree with SCOPS that the record also lacks relevant probative evidence that the mayor's letter was an *award for excellence* in the field of endeavor. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2 (providing that relevant considerations as to whether the basis for granting the prizes or awards was excellence in the field may include, but not limited to: the criteria for the award or prize, the number of recipients, and any limitations on competitors or eligibility for the award or prize). The Petitioner therefore must address this evidentiary deficiency as well in any future filings for purposes of satisfying the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i).