U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF Y-J-

DATE: JULY 11, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a banking executive, seeks classification as an individual of extraordinary ability in business. *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 Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the initial evidentiary criteria, of which she must meet at least three.

On appeal, the Petitioner states that she meets at least three criteria.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to qualified 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 the United States to continue work in the area of extraordinary ability, and
>
> (iii) the alien's entry into the United States will substantially benefit prospectively 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 two options for satisfying this classification's initial evidence requirements. First, a petitioner can demonstrate a one-time achievement (that is a major, internationally recognized award). Alternately, he or she must provide documentation that meets at least three of the ten categories of evidence 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).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and 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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we 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." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner is a banking executive with the [redacted]
Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner met the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii) and the high salary criterion under 8 C.F.R. § 204.5(h)(3)(ix).

On appeal, the Petitioner contends she also meets the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v). We have reviewed all of the evidence in the record, and it does not support a finding that the Petitioner satisfies at least three criteria.

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner indicates that she created two marketing efforts at the [redacted] that were later implemented to all of [redacted] One such effort, the '[redacted] provides one-stop financial solutions, such as currency exchange, international money transfer, and credit card services. In addition, '[redacted] which was later registered as a trademark, combined [redacted] retail products with upgraded financial services. The record contains internal memoranda reflecting [redacted] instruction to implement these promotional campaigns to its offices and sub-branches. Further, the Petitioner presented a letter from [redacted] former governor of [redacted] who discussed the Petitioner's work history and accomplishments at the bank. Specifically,

in addition to the two marketing programs mentioned above, mentioned the Petitioner's organization of ' and Although stated that the Petitioner's "retail promotion activities greatly enhanced the image of private banking" and "her contribution to is invaluable," he did not establish how the Petitioner's promotional efforts have been of major significance to the field. Here, the Petitioner did not show that her work impacted the banking industry beyond *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

Similarly, the record contains reference letters from president of and member of the board of directors for who praised the Petitioner for her professional skills. While the letters attest to banking collaborations with the Petitioner, such as her proposal to issue credits cards to the shopping plaza's customers and insurance policies for minors, they do not explain how her contributions are "of major significance in the field." Specifically, the letters describe the Petitioner's contributions to their own businesses without showing how her work has significantly influenced the banking field, so as to establish that she has made original contributions of major significance.

Ultimately, letters that repeat the regulatory language but do not explain how a petitioner's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field. *Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d at 1115. In 2010, the *Kazarian* court reiterated that U.S. Citizenship and Immigration Services' conclusion that the "letters from physics professors attesting to [the petitioner's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122. The letters considered above primarily contain attestations of the Petitioner's status in the field without providing specific examples of how those contributions rise to a level consistent with major significance in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). While the Petitioner did not demonstrate that her work for such as her campaign projects, meet this criterion, this work will be considered under the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). In the case here, the Petitioner has not met her burden of showing that she has made original contributions of major significance in the field.

> *Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

The Director determined that the Petitioner met this criterion. As discussed above, in the Petitioner's capacity of vice president and vice governor of the she created several promotional campaigns that were later implemented to other branches of including the registered trademark, Thus, the Petitioner established that she performed in a critical role for which has a distinguished reputation, and we agree with the Director's decision for this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

The Petitioner provided evidence of her annual income from 2011-2015 at [redacted] of [redacted] In addition, the Petitioner presented a 2013 salary guide for China reflecting that she earned a high salary compared to other professionals in her field. Accordingly, the Director found that the Petitioner satisfied this criterion, and we concur with the Director's findings for this criterion.

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 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 finding that the Petitioner has established the level of expertise required for the classification sought. For the foregoing reasons, the Petitioner has not shown that she qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of Y-J-*, ID# 416927 (AAO July 11, 2017)