U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-H-A-

DATE: JULY 28, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an actor and voice-acting instructor, seeks classification as an individual of extraordinary ability in the arts. *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 Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief and additional evidence. The Petitioner contends that he also meets the original contributions and critical role criteria, thereby meeting the evidentiary requirements for this classification.

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

I. LAW

Section 203(b)(1)(A) of the Act states:

> Aliens with extraordinary ability. -- An alien is described in this subparagraph 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 evidence that meets at least three of the 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).

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 an actor who has performed in several films and television programs in Iran, and who serves as an instructor of voice acting for two acting schools.[1] As the Petitioner has not indicated or established that he has 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). In denying the petition, the Director found that the Petitioner met the criteria for lesser nationally or

[1] We will evaluate all evidence relating to his voice-acting achievements as both an actor and an instructor. We note that the U.S. Citizenship and Immigration Services Adjudicator's Field Manual (AFM) provides analogous guidance for athletes and coaches:

> In general, if a beneficiary has clearly achieved *recent* national or international acclaim as an athlete and has sustained that acclaim in the field of coaching/managing at a national level, adjudicators can consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability such that we can conclude that coaching is within the beneficiary's area of expertise.

AFM ch. 22.22(i)(1)(C) emphasis in original).

internationally recognized prizes under 8 C.F.R. § 204.5(h)(3)(i) and high salary under 8 C.F.R. § 204.5(h)(3)(ix).

On appeal, the Petitioner contends he also meets original contributions under 8 C.F.R. § 204.5(h)(3)(viii) and critical or leading role under 8 C.F.R. § 204.5(h)(3)(viii). 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.

> *Documentation of the alien'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).*

The Director found that the Petitioner meets the awards criterion at 8 C.F.R. § 204.5(h)(3)(i). The record supports the Director's finding that he satisfies this criterion as it reflects, for instance, that the Petitioner received awards for superior hosting and voice acting at the in 2009 and 2010. The Petitioner also submitted evidence demonstrating that he received the festival awards for " and " though the record is unclear on the date the awards were conferred. Additionally, the record shows that, in 2005, the Petitioner received an award from for hosting and performing on a TV contest, and, in 2010, that he was honored with the first memorial plaque for by the

> *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 Director also found that the Petitioner has commanded a high salary or other significantly high remuneration for services in relation to others actors in his field under 8 C.F.R. § 204.5(h)(3)(ix). The record, however, does not demonstrate that the Petitioner meets this criterion. He submitted a statement from the director of one of the media channels in the country, indicating that he earned four to five times more than other actors at He also provided several television acting and voice acting contracts that reflect similar earnings at other channels. However, the Petitioner did not sufficiently document the compensation of other actors in Iran to support his claim. While the record establishes the Petitioner's income, it does not include adequate information and evidence to determine how his earnings compare to the field at large. Without evidence demonstrating that the Petitioner has commanded a high salary in relation to others in his field, he has not established that he meets this regulatory criterion.

> *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).*

In the decision, the Director determined that the Petitioner did not establish that his role for was leading or critical. Additionally, the Director found that the record did not establish that the

[2] The record reflects that is the organization for Iran.

organizations or establishments for which the Petitioner claimed to have performed in a leading or critical role had a distinguished reputation.

On appeal, the Petitioner submits new evidence related to his work with the and renews his claim that his work for satisfies the critical role criterion. As evidence of his role with the Petitioner submitted a letter from its managing director, The letter notes that the Petitioner has worked on more than 170 projects for the organization and has been involved in its education sector. In general, a leading role is evidenced from the role itself, and a critical role is one in which a petitioner was responsible for the success or standing of the organization or establishment. The letter does not specify what position the Petitioner holds with or how it fits into the hierarchy of the organization to show that it is a leading role. Further, while states that the Petitioner's presence has resulted in "gaining much more prestige and reputation," he does not clarify how the Petitioner's work was critical to the success and standing of the organization, nor does the record include adequate evidence to support his statement. As such, the record is insufficient to establish that the Petitioner performed in a leading or critical role for the organization. Furthermore, the record does not establish that possesses a distinguished reputation consistent with this regulatory criterion.

The Petitioner also points to his long career with as evidence of performing in a leading or critical role for that organization. The Petitioner refers to the letters of appreciation for his work that the Director reviewed and he provides an additional letter from the manager of and advertising material related to the Petitioner's performances and appearances. indicates that the Petitioner has had a distinguished career as an actor and has been chosen several times as the best actor and most popular host and voice actor. However, the record does not support claims regarding the Petitioner's awards for talent and popularity. Furthermore, letter does not indicate that the Petitioner has held a leading role for or describe how his work was critical to the success and standing of the organization.

Similarly, the promotional materials the Petitioner submits on appeal do not establish that his roles were leading or critical as they do not identify the nature of his work or the prominence of his positions. Furthermore, it is unclear that the noted performances are related to his work for , as the organization is not identified on any of the promotional materials. Additionally, the record does not document reputation as an organization. Without additional evidence that the Petitioner has performed in a leading or critical role for a distinguished organization, the Petitioner has not established that he meets this regulatory criterion.

> *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).*

As evidence under this criterion, the Petitioner provided a certificate from the managing director of the indicating that, since 2009, the Petitioner has been one of the best acting instructors there. The Director considered the certificate and

concluded that it was insufficient to establish that the Petitioner's work constituted original contributions of major significance in the field.

On appeal, the Petitioner provided a second letter from in his capacity as the managing director of the In his letter, indicates that the Petitioner is a high quality instructor and has been elected by the students as the top instructor and teacher at the institute many times. The Petitioner also submitted documents related to his membership in the as evidence of his versatility.[3]

The letters considered above primarily contain discussions of the Petitioner's work for particular organizations and attestations of his status in the field without providing specific examples of how those contributions rise to a level consistent with major significance in the field. U.S. Citizenship and Immigration Services need not accept primarily conclusory statements. *1756, Inc. v. The US Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990). Without additional supporting evidence showing that his work has been unusually influential, has substantially impacted the field, or has otherwise risen to the level of original contributions of major significance in the field, the Petitioner has not established that he meets this regulatory criterion. *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).

Evidence of the display of the alien's work in the field at artistic exhibitions or showcases. 8 C.F .R. § 204.5(h)(3)(vii).

Although the Director did not find that the Petitioner met any other criteria, the record indicates that the Petitioner satisfies one additional criterion. Specifically, the Petitioner has demonstrated that his performances meet the criterion for display at artistic exhibitions or showcases under 8 C.F.R. § 204.5(h)(3)(vii). For instance, the Petitioner performed as an actor in several television series broadcast on television including and .

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.[4] Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that

[3] We note that the Petitioner is not claiming eligibility under the membership criterion set forth in 8 C.F.R. § 204.5(h)(3)(ii).

[4] Further, as the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not determine whether he is coming to "continue work in the area of extraordinary ability" under section 203(b)(1)(A)(ii).

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

ORDER: The appeal is dismissed.

Cite as *Matter of A-H-A-*, ID# 409898 (AAO July 28, 2017)