U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF J-B-L-

DATE: JUNE 19, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a martial arts instructor and referee, seeks classification as an individual of extraordinary ability in athletics. *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 not satisfied any of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits documentation and a brief, stating that he 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). If that petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten categories 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, a martial arts instructor and referee, serves as the chief technical coordinator, director, and instructor for the [redacted] Because 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 that the Petitioner did not meet any of these criteria.

On appeal, the Petitioner maintains that he meets the awards criterion under 8 C.F.R. § 204.5(h)(3)(i), the membership criterion under 8 C.F.R. § 204.5(h)(3)(ii), the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii), the judging criterion under 8 C.F.R. § 204.5(h)(3)(iv), the display criterion under 8 C.F.R. § 204.5(h)(3)(vii), and the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). We have reviewed all of the evidence in the record of proceedings, and it does not support a finding that the Petitioner satisfies the plain language requirements of 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 Petitioner contends that his "Best Instructor Award – ' and "Best Referee and Judge Award – ' from the qualify under this criterion. The record includes a letter from the chief editor and publisher of the who explained the selection process for the awards and why the Petitioner was picked for them. In addition, the Petitioner submitted a letter from the general secretary of the who indicated that the Petitioner was the first Indian national to receive the awards and they are a "big honor to be awarded by the " Further, the Petitioner presented an advertisement for the reflecting that it has over 5,000 copies in circulation. Although the Petitioner's documentation provides background information regarding the publication and describes why the Petitioner was chosen for the awards, the evidence does not show that the awards are nationally or internationally recognized for excellence in the field. Accordingly, the Petitioner has not demonstrated that he meets this criterion.

Documentation of the alien's 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 asserts eligibility for this criterion based on his memberships with and the .[1] Specifically, he stresses his roles as chief instructor and chairperson for the ad hoc committee of the . His roles or positions, however, are not determinative factors for this criterion; rather, the Petitioner must show that his memberships with associations require outstanding achievements, as judged by recognized national or international experts.

Regarding the Petitioner provided evidence confirming his membership and appointed positions within the association; however, he did not demonstrate the membership requirements for As it pertains to the Petitioner presents a letter from the organization's member secretary stating that it is the only governing body to regulate sports in Nepal, and that the Petitioner was nominated as the ad hoc committee chairperson based on his international recognition, knowledge and skills, and fluency in Nepali and Hindi languages. The letter, however, does not indicate that membership with either or the committee requires outstanding achievements, as judged by recognized national or international experts, as a condition for membership consistent with the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii). For these reasons, the Petitioner did not establish that he meets this criterion.

[1] is within the Government of Nepal, Ministry of Youth and Sports.

> *Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

The record contains a [redacted] article that discussed the Petitioner as a martial arts instructor, as well as evidence indicating that the publication is a major medium in India. Thus, the Petitioner satisfies this regulatory criterion.

> *Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv).

The Director found that the Petitioner had not established that his refereeing experience involved judging the work of others as opposed to solely ensuring fair play according to the rules. However, as discussed under the awards criterion, the record shows the Petitioner received the "Best Referee and Judge Award – [redacted]" for his work at the "[redacted]" indicating that his role at the event included judging. We therefore find that the Petitioner has met this criterion.

> *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).

The Petitioner claims that his "exposure" in competitions and tournaments around the globe, as well as his roles as the chief martial arts instructor for the [redacted] and [redacted] qualifies him for this criterion. In order to demonstrate eligibility for this criterion, the Petitioner must show that his work was on display, and the venues were artistic exhibitions or showcases.[2] Here, the Petitioner has not established that the competitions or programs constituted artistic venues that displayed his work. Accordingly, the Petitioner does not satisfy this 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).

The Petitioner maintains that his roles with [redacted] and [redacted] meet this criterion. 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. Regarding [redacted] the Petitioner provided letters explaining his various roles within the federation, demonstrating that he performed in a leading or critical role. Specifically the Petitioner served as the chief instructor, overseeing 10 other instructors, and was responsible for the development of the technical aspects not only in India but also within Asia. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii) also requires the establishments or organizations to have a distinguished reputation. Although the Petitioner submitted a certificate from [redacted] showing that it is "in good standings with the ethics,

[2] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 9.

morals and principles of the Federation and pledges to uphold its integrity," this is not sufficient to show the organization enjoys a distinguished reputation. The submitted evidence, for example, does not show eminent standing in the martial arts field or reference any renowned awards or accolades.

As it pertains to the Petitioner participated as the chairperson of the committee within and he was later nominated as secretary general of the committee. The record also shows that the Petitioner's position was under the hierarchy of the president. The Petitioner has not shown, however, that his committee role is indicative of a leading or critical role to Further, the previously discussed letter from the member secretary does not describe the Petitioner's duties or state his accomplishments to show a leading or critical role. In addition, although the Petitioner provided evidence reflecting that the is the governing sports body in Nepal, he did not establish how such evidence demonstrates that it has a distinguished reputation. For these reasons, the Petitioner has not met his burden of demonstrating his eligibility under this criterion.

III. CONCLUSION

The Petitioner is not eligible because he has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 119-20. 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.

ORDER: The appeal is dismissed.

Cite as *Matter of J-B-L-*, ID# 407274 (AAO June 19, 2017)