U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF X-X-

DATE: MAR. 10, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a structural engineer, seeks classification as an "alien of extraordinary ability." *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 petition, concluding that, although the Petitioner submitted documentation satisfying initial evidence criteria, the totality of the evidence did not demonstrate his extraordinary ability.

On appeal, the Petitioner submits additional documentation and a brief, and indicates that he has satisfied at least three initial evidence criteria and has shown that he has extraordinary ability as an engineer.

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

I. LAW

Section 203(b) of the Act states in pertinent part:

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) 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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. If a petitioner meets three criteria, we then examine the evidence of record in the context of a final merits determination. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review); *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); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and 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").

II. ANALYSIS

The Petitioner is a civil engineer specializing in airport construction and design. The Director found he submitted the necessary evidence to meet three of the initial evidence criteria listed at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). The Director denied the petition after a finals merits determination, however, concluding that the record as a whole did not demonstrate the Petitioner's extraordinary ability.

We agree that the Petitioner has provided evidence that satisfies the necessary initial evidence criteria. The outstanding issue is therefore whether the totality of evidence demonstrates that he is an individual of extraordinary ability. After reviewing all evidence submitted, we conclude that the Petitioner has shown a history of achievements and experience indicative of someone at the top of his field of endeavor.

The Petitioner received a PhD in Structural Engineering from [redacted] in 1995. He received a PhD in Civil Engineering from the [redacted] in 2009. During this period, he also worked in a variety of engineering positions around the globe. An article in [redacted] features an interview with the Petitioner. The article notes that he is responsible for designing the new development for [redacted] in [redacted]

Kenya, which is increasing its capacity from 1.5 to 20 million people. He has overseen development projects at New York's and airports, New Jersey's and airports, and Pennsylvania's airport. The Petitioner is currently the Manager of Airport Engineering for

The documentation provided shows the high esteem attributed to the Petitioner in his native China, the United States, and other countries. In China, the Petitioner received the National Award for awarded by the in both 2012 and 2014. The evidence provided indicates that the honor is given biennially to around individuals who have made major contributions to masonry. Letters of recommendation indicate that only 10 individuals have ever received the award more than once. The Petitioner received the award for "fundamental research involving scientific experiments, technology innovation and academic exchanges in the field of masonry structures, and active participation in developing and revising China's national standard."

The Petitioner served as a member of the for the ' ' issued by the a professor at notes that the Petitioner "has been working for[, and] establishing and developing over 15 years." The Petitioner also helped develop and revise the national ' ' issued by the Documentation provided indicates that "is entrusted by the Chinese government to establish, develop and manage national engineering construction standards, organize the academic activities, provide the training of how to use the standards, publish Engineering Construction Standardization Journals and the related books."

The Petitioner also submitted evidence of his recognition in the United States. He served for seven years as a panelist for the The is funded by the and "carries out applied research on problems that are shared by airport operating agencies and are not being adequately addressed by existing federal research programs." As a panel member, the Petitioner worked on four different research projects to "provide[ ] technical guidance and counsel throughout the life of the project . . . . The panels prepare project statements and select contractors based on evaluation of the proposals they received; they guide the projects and . . . serve voluntarily without compensation." According to a senior program officer for "[the Petitioner] was repeatedly selected to serve on project panels based on his expertise in the highly technical field of airport infrastructure as it relates to safety and his desire to share his considerable technical knowledge with others in the airport industry."

The Petitioner's publication record includes four academic articles published in 1987 in in 2002 in the and in 2006 and 2009 in the Recommendation letters provided by the Petitioner focus on the substantive contributions outlined in these articles. The letters also note the

series of presentations the Petitioner has made at the [redacted] the [redacted] and the [redacted] mentioning in particular that the Petitioner has "provided a means to assess the integrity of masonry structures, and to predict masonry fracture in a broad range of scenarios."

The evidence provided shows that the Petitioner's accomplishments and expertise are recognized at national and international levels. As a result, we conclude that he has demonstrated his extraordinary ability as a structural engineer.

III. CONCLUSION

The Petitioner has sufficiently shown that he is one of that small percentage who has risen to the very top of his field of endeavor. Section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

ORDER: The appeal is sustained.

Cite as *Matter of X-X-*, ID# 123016 (AAO Mar. 10, 2017)