U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 36837461

Date: MAR. 13, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, an operator of a polo umpiring program, seeks to employ the Beneficiary as an umpire in that sport. The organization requests his classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Petitioners sponsoring beneficiaries for U.S. permanent residence in this category must demonstrate the aliens' "sustained national or international acclaim" and extensively document recognition of their achievements in their fields. Section 203(b)(1)(A)(i) of the Act.

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner met none of the requested category's ten initial evidentiary requirements – three less than needed for a final merits determination. On appeal, the organization contends that the Director "ignored" and misunderstood evidence.

The Petitioner bears the burden of demonstrating the Beneficiary's eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude that the organization met two evidentiary requirements and that the Director neglected to consider its claimed satisfaction of two others. We will therefore withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.[1]

I. LAW

A beneficiary qualifies as an alien with extraordinary ability if their petitioner demonstrates that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Through their work, would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

[1] We do not believe that this matter merits oral argument. We will therefore deny the Petitioner's request. *See* 8 C.F.R. § 103.3(b).

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a beneficiary received "a major, international recognized award," a petitioner must satisfy at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3).[2]

If a petitioner meets either evidentiary standard and the requirements at section 203(b)(1)(A)(ii), (iii) of the Act, USCIS must then make a final merits determination. To merit approval, the record – as a whole – must establish a beneficiary's "sustained national or international acclaim" and recognized achievements placing them among the small percentage at their field's very top. *See Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

A. The Beneficiary and His Field

The record shows that the Beneficiary, a Barbadian native and citizen of the United Kingdom (UK), played professional polo for more than 30 years. For the past ten years, he has worked as a professional polo umpire, officiating matches, enforcing the sport's rules, and ensuring the safety of players and their horses.

The Beneficiary has worked in the United States since 2021, officiating polo tournaments. He is one of only two people in the world to receive the U.S. Polo Association's [redacted] He stated that he intends to continue umpiring polo in this country.

The record does not indicate – nor does the Petitioner claim – the Beneficiary's receipt of a major internationally recognized award. The company therefore must meet at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i-x).

The Director found that the Petitioner did not submit evidence of the Beneficiary's:

- Receipt of lesser nationally or internationally recognized awards for excellence in his field;
- Membership in associations requiring outstanding achievements in the field;
- Status as the subject of published materials in the field;
- Performance in a leading or critical role for organizations with distinguished reputations; or
- Commandment of a high salary or significantly high remuneration for his services.

See 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (viii), (ix).

In its response to the Director's request for additional evidence (RFE), the Petitioner denied claiming to meet the associations' membership requirement. *See* 8 C.F.R. § 204.5(h)(3)(ii). The organization

[2] If an evidentiary criterion does not "readily apply" to a beneficiary's occupation, a petitioner may submit "comparable evidence" to establish eligibility. 8 C.F.R. § 204.5(h)(4).

stated that, to establish the Beneficiary's eligibility, it had also submitted evidence of his participation as a judge of others' work and comparable evidence. *See* 8 C.F.R. §§ 204.5(h)(3)(iv), (4).

B. The Evidentiary Criteria

A petitioner's evidence must objectively meet the parameters of applicable regulatory descriptions. *See* 6 *USCIS Policy Manual* F.2(B). When adjudicating a petition, USCIS "must 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. at 376; *see generally* 1 *USCIS Policy Manual* E.6. The Agency must "[r]eview all the evidence to determine if each of the essential elements [of a benefit request] has been satisfied by the applicable standard of proof." 1 *USCIS Policy Manual* E.6(F)(1). We cannot affirm a decision "when the record suggests that [an agency] failed to consider important evidence in that record." *Seck v. U.S. Att'y Gen.*, 663 F.3d 1356, 1368 (11th Cir. 2011).

The Petitioner contends that the Director "ignored" its response to her request for additional evidence (RFE). The company claims: "The exact things the Service stated as deficient in their final analysis were in fact presented by the petitioner in the RFE response."

1. Lesser Nationally or Internationally Recognized Awards

This criterion requires "[d]ocumentation 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). When adjudicating this requirement, USCIS first determines whether a beneficiary – as opposed to their employer, for example – received prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 1. If so, the Agency then determines whether the awards honored excellence in the applicable field and garnered national or international recognition. *Id.*

The Petitioner submitted evidence of the Beneficiary's receipt of numerous awards as a polo umpire. Among the most prestigious are his British "umpire of the year" awards in [redacted] Multiple letters from polo experts describe the awards as internationally recognized. Also, copies of online media articles – including one from a nationally distributed British newspaper – show photographs of the Beneficiary receiving the [redacted] awards. Despite these materials, the Director found insufficient evidence "that these awards are recognized beyond the awarding entities on a national or international level."

We disagree. In its RFE response, the Petitioner submitted evidence that one of the organizations that issued the umpire awards governs polo in the UK and the other hosts the country's top polo tournament. The organizations' reputations and the British media attention demonstrate that the awards garnered at least national recognition in the UK. *See Buletini v. INS*, 860 F.Supp. 1222, 1231 (E.D. Mich. 1994) (stating that an award "need not have significance outside of one country").

Thus, contrary to the Director's decision, the Petitioner has submitted documentation of the Beneficiary's receipt of nationally or internationally recognized awards for excellence in his field.

2. Published Material

This criterion requires "[p]ublished 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." 8 C.F.R. § 204.5(h)(3)(iii). Evidence must include "the title, date, and author of the material, and any necessary translation." *Id.*

When adjudicating this requirement, USCIS first determines whether the published material relates to a beneficiary and their specific work in their field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. The Agency will accept published material that covers a broader topic if the material includes "a substantial discussion of the person's work in the field and mentions the person in connection to the work." *Id.*

USCIS next determines whether a publication qualifies as a professional publication, major trade publication, or major media publication. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. Relevant factors include, for professional and major trade publications, the intended audience and, for major trade publications and other major media, a publication's relative circulation, readership, or viewership. *Id.*

As previously indicated, the Petitioner submitted copies of online media articles mentioning the Beneficiary's receipt of umpiring awards or his officiating at certain matches. The Director, however, found that some of the published materials: lack titles, dates, or authors; only briefly mention the Beneficiary or show a photograph of him; and "appear to be marketing materials, which were created for the purpose of promoting the sport events."

The Petitioner's RFE response stated that "p]olo umpires are seldom mentioned in the press." "The fact that [the Beneficiary] has published articles which mention him is by itself a testament to worldwide polo's recognition of his extraordinary abilities and the impact he has had and continues to have on the sport."

USCIS policy, however, requires published material to include "a substantial discussion of the person's work in the field." 6 *USCIS Policy Manual* F.2(B)(1), Criterion 3. As the Director found, the published materials that the Petitioner submitted show photos or merely mention the Beneficiary and his umpiring work. Contrary to USCIS policy, the materials do not include a "substantial discussion" of him and his work. *See also Mussarova v. Garland*, 562 F.Supp.3d 837, 849 (C.D. Cal. 2022) (citations omitted) ("[P]ublished material . . . reporting on an event in which the [alien] participated does not satisfy Criterion iii, despite the fact that the publication includes references to or photographs of the [alien]"). The Petitioner submitted copies of articles substantially discussing two other polo umpires who wrote letters on the Beneficiary's behalf. But the record lacks similar articles about the Beneficiary and his work.

The Petitioner has not submitted evidence of published materials substantially discussing the Beneficiary and his work.[3] We therefore agree with the Director that the organization has not met this evidentiary requirement.

3. Performance in a Leading or Critical Role

To meet this requirement, a petitioner must submit "[e]vidence 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).

USCIS first determines whether a beneficiary has performed in a leading or critical role for an organization, establishment, or a division or department of an organization or establishment. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. A leading role means that a beneficiary is (or was) a leader within the organization, establishment, division, or department. *Id.* In contrast, a critical role means that a beneficiary "contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment." *Id.*

USCIS next determines whether the organization, establishment, department, or division for which a beneficiary holds or held a leading or critical role has a distinguished reputation. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 8. Relevant factors include not only an organization's relative size and longevity but also other information such as the scale of its customer base or relevant media coverage. *Id.*

The Director noted that the Petitioner primarily relied on letters from its officials and those of other organizations. The Director found the letters insufficient to establish the Beneficiary's performance in a leading or critical role at any of the organizations. The Director described the letters as "broad," lacking "specific description[s] of the beneficiary's duties" and found that they did not explain how the Beneficiary's roles were leading or critical.

The Petitioner's RFE response, however, included letters from officials of the Petitioner, an international polo federation, and UK polo associations. These letters detail the Beneficiary's duties as a polo umpire, including: leading crews in officiating polo matches; assessing fellow umpires; and providing or organizing training and educational programs for them. The letters state that the Beneficiary's contributions have significant importance because they keep the organizations interpretating and enforcing polo rules consistently, maintaining the sport's integrity and the organizations' reputations in the field. *See Rubin v. Miller*, 19 Civ. 4320 (LGS), 2020 WL 4704882, *6 (S.D.N.Y. Aug. 13, 2020) (vacating a USCIS decision that did not address why statements attesting to an alien's contributions did not prove performance in a leading or critical role).

[3] Because the record lacks published material substantially discussing the Beneficiary and his work, we need not determine whether the material appeared in professional or major trade publications or other major media. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies need not make "purely advisory findings" on issues unnecessary to their ultimate decisions).

Thus, the Petitioner has submitted evidence of the Beneficiary's performance in a critical role for organizations with distinguished reputations. We will therefore withdraw the Director's contrary decision.

4. High Salary or Significantly High Remuneration

This criterion requires "[e]vidence 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 submitted copies of IRS Forms 1099-NEC, Nonemployee Compensation, indicating that it paid the Beneficiary $59,450 in 2022 and $55,400 in 2023.[4] A copy of a signed June 2024 "summary" of his employment agreement with the Petitioner states that, in addition to paying his housing and travel expenses, the organization paid him $2,500 a week for his services. In its RFE response, the Petitioner stated that amounts on the Forms 1099 "correspond" with the information in the employment contract summary. Thus, the Forms 1099-NEC indicate that the Beneficiary worked for the Petitioner about 24 weeks in 2022 and about 22 weeks in 2023. Also, letters from the Petitioner's executive and assistant directors state that, of the umpires the organization pays, the Beneficiary receives "one of the highest remunerations."

The Director found the evidence insufficient to meet this criterion. But, as the Petitioner argues, the Director disregarded other evidence in the organization's RFE response. The Petitioner also submitted a June 2024 memorandum from the organization's executive administrator, listing 17 umpires that the organization then paid, including the Beneficiary. The document does not include payment amounts. But it lists the umpires, most of whom were born outside the United States, in order from those receiving the highest to the lowest remuneration. The Beneficiary tops the list, indicating that the Petitioner paid him more than the other umpires. The Petitioner contends that its evidence "does in fact establish that [the Beneficiary] is paid by [the organization] for the services he provides, at a rate significantly high [compared] to others working in the field."

Other evidence, however, casts doubt on the relative level of the Beneficiary's remuneration. On appeal, the Petitioner stated that the Form 1099s reflect only money the Beneficiary earned "for the specific weeks he worked for [the Petitioner] during those years." The organization states that "a majority of his income was earned in other countries around the world." The record does not explain how the Beneficiary earned a majority of his income in other countries when his Form 1099s indicate that he worked most of 2022 and 2023 in the United States. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (requiring petitioners to resolve inconsistencies with independent, objective evidence pointing to where the truth lies).

Also, the record lacks evidence of the Beneficiary's foreign earnings. Thus, while the Petitioner may pay the Beneficiary a higher rate than other umpires, foreign polo associations might pay him less than others. Also, there may be polo umpires who do not work for the Petitioner who earn more than the Beneficiary. Without evidence of the total U.S. and foreign incomes of the Beneficiary and other polo

[4] The Petitioner also submitted copies of IRS Forms 1099-MISC, Miscellaneous Information, indicating that it paid the Beneficiary "other income" of $10,625 in 2022 and $1,720 in 2023. The record does not indicate the nature of the other income in either year. We will therefore consider only the Beneficiary's nonemployee compensation during those years.

umpires during the same period, the Petitioner has not sufficiently demonstrated that he has commanded a high salary or other significantly high remuneration for his services compared to others in the field.

Further, the record contains a discrepancy in the number of polo umpires who work for the Petitioner. The memo from the executive administrator lists 17 umpires working for the organization in June 2024. But, in a letter dated about five months before the petition's March 2024 filing, an ambassador/assistant zone director of the international polo federation stated that the Petitioner has "166 registered umpires." If the Petitioner had 166 umpires in October 2023, the record does not explain why, about eight months later, the Petitioner paid only 17 umpires. If the June 2024 memo lists only umpires who then worked for the organization, there may be other umpires who were not working for the Petitioner at that exact time but to whom the organization pays more than the Beneficiary. *See Matter of Ho*, 19 I&N Dec. at 591 (requiring a petitioner to resolve inconsistencies of record).

For the foregoing reasons, the Petitioner has not submitted evidence that the Beneficiary has commanded a high salary or significantly high remuneration for his services relative to others in the field. We will therefore affirm the Director's finding on this criterion.

C. The Remaining Issues

The Petitioner has met two evidentiary criteria – one less than needed for a final merits determination. As previously indicated, the organization claims to have met two additional requirements by submitting evidence of the Beneficiary's participation as a judge of others' work in the field and comparable evidence. *See* 8 C.F.R. § 204.5(h)(3)(iv), (4). The Director did not consider these claims, and we decline to decide them in the first instance. We will therefore remand the matter.

On remand, the Director should consider the Petitioner's two additional evidentiary claims. If the organization satisfies at least one more criterion, the Director should make a final merits determination and issue a new decision. If the Director finds the Petitioner's two additional claims lacking, she should issue a new decision explaining in writing the specific reasons for the denial. *See* 8 C.F.R. § 103.3(a)(1)(i).

III. CONCLUSION

The Petitioner has satisfied two of ten initial evidentiary requirements. USCIS must consider the organization's additional two evidentiary claims.

ORDER: The Director's decision is withdrawn. The matter is remanded for entry of a new decision consistent with the foregoing analysis.