U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37718725

Date: MAY 1, 2025

Appeal of Service Center Operations Decision

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

The Petitioner who intends to work as an administrative services and facilities manager 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 (EB-1) classification makes immigrant visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their fields through extensive documentation.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner contends that SCOPS misapplied the eligibility criteria and failed to consider substantial evidence that demonstrates his qualifications and expertise. He maintains that the evidence supports his eligibility for the EB-1 visa classification.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) of the Act makes visas available to aliens 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). *See also Onaghise v. Dep't of Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) ("EB-1 petitions, nicknamed Einstein visas, are coveted visas reserved for only the most talented noncitizens with extraordinary ability in the sciences, arts, education, business, or athletics"). 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 the beneficiary's achievements in the field through a one-time achievement that is a major, internationally recognized award. If that petitioner does not submit this evidence, then they 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) (including items, such as awards, published material in certain media, and scholarly articles). Additionally, if the criteria at 8 C.F.R. § 204.5(h)(3) do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility. 8 C.F.R. § 204.5(h)(4).

Where a beneficiary 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 beneficiary 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).

II. ANALYSIS

A. Evidentiary Criteria

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). SCOPS decided that the Petitioner did not satisfy any of the six claimed criteria relating to lesser recognized awards, membership in associations, original contributions, display of his work, a leading or critical role, and a high salary. After reviewing all the evidence in the record, we conclude that the Petitioner has not demonstrated eligibility for this highly restrictive immigrant classification for the reasons we will discuss below. While we may not address each piece of evidence individually, we have reviewed and considered each one.

1. "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).

In order to fulfill this criterion, the Petitioner must first demonstrate that he was the recipient of prizes or awards. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual. Second, the award must be a lesser nationally or internationally recognized prize or award, which the person received for excellence in the field of endeavor. *Id.* Example of qualifying awards may include certain awards from well-known national institutions or well-known professional associations, certain doctoral dissertation awards, and certain awards recognizing presentations at nationally or internationally recognized conferences. *Id.* Relevant considerations regarding whether the basis for

granting the prizes or awards was excellence in the field include: (1) the criteria used to grant the awards or prizes, (2) the national or international significance of the awards or prizes in the field, (3) the number of awardees or prize recipients, and (4) limitations on competitors. *Id.*

The Petitioner claims eligibility for this criterion based on the receipt of a [redacted] holiday medal presented by [redacted] of Kazakhstan in December 2021. The award certificate indicates that the medal was presented according to the Decree of the [redacted] in December 2021. The Petitioner asserts that the medal represents a state level acknowledgment reserved for individuals who have made substantial contributions to the development and progress of Kazakhstan. He also claims that the medal is a prestigious accolade conferred to honor excellence in various fields, including administrative and organizational achievements that contribute to national welfare. On appeal, the Petitioner offers information about the [redacted] medal from Wikipedia, which provides that the medal is a state award of Kazakhstan, approved by [redacted] of the [redacted] dated May 2021, and that it is the festive medal in honor of the [redacted]

Based on the award certificate and information from Wikipedia, the Petitioner established that he received the medal and that the medal is a nationally recognized award in Kazakhstan. However, the Petitioner did not establish that the medal represents the national recognition of excellence in the field of his endeavor. *See* 8 C.F.R. § 204.5(h)(3)(i). While he claims that the medal is a prestigious accolade conferred to honor excellence in various fields, the record lacks evidence to support that the basis for granting the medal was excellence in his field. For example, the Petitioner did not offer any information regarding the criteria used to grant the medal, evidence of the national significance of the medal in his field, except for the fact that the medal is the festive medal given to honor the [redacted] the number of the medal recipients, or limitations on competitors for the medal.

Submitting evidence of the beneficiary's receipt of a prize or award is insufficient to meet the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) without documentary evidence reflecting that the prize or award is nationally or internationally recognized for excellence in the field of endeavor. In this case, the Petitioner has not demonstrated that the medal is a nationally or internationally recognized prize or award for excellence in the field of his endeavor. Accordingly, the Petitioner does not meet this criterion.

2. "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).

In order to satisfy this criterion, the Petitioner must show that the association for which he claims present or past membership requires that members have outstanding achievements in the field, as judged by recognized experts in that field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Example of associations in the field requiring outstanding achievements of their members may include a membership in certain professional association and a fellow with certain organizations or institutions. *Id.* Associations may have multiple levels of membership, and the level of membership afforded to the person must show that in order to obtain that level of membership, recognized national

or international experts judged the person as having attained outstanding achievements in the field for which classification is sought. *Id.*

The Petitioner claims that his membership with [redacted] a ruling political party of Kazakhstan, fulfills this criterion. The record contains the Petitioner's statement providing his employment history, his *trudovaya knizka* (work record book) verifying his employment with [redacted] (previously known as [redacted] from September 2018 to January 2023, and recommendation letters from various individuals at [redacted] describing the Petitioner's skills, achievements, and contributions to [redacted]. These documents establish that the Petitioner was an employee of [redacted] but do not indicate that the Petitioner is a member of any association. *See* 8 C.F.R. § 204.5(h)(3)(ii). Submitting documentary evidence reflecting the beneficiary's employment or involvement with a particular organization without evidence reflecting that the beneficiary is a member of an association that requires outstanding achievements of its members, as judged by recognized national or international experts, is insufficient to meet the plain language of the regulation. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) requires the petitioner to show "membership in associations" rather than the beneficiary's employment or involvement with organizations or businesses.

In addition, even assuming that the Petitioner was a member of [redacted] the Petitioner did not submit sufficient documentary evidence reflecting that his alleged membership with [redacted] requires outstanding achievements of its members, as judged by recognized national or international experts in their fields. *See* 8 C.F.R. § 204.5(h)(3)(ii). The Petitioner asserts that [redacted] being a dominant political party with stringent standards for membership and significant influence on national policies, requires high levels of professional and administrative excellence. He claims that the recommendation letter from [redacted] confirms his distinguished affiliation with [redacted] since April 2019.

In her letter, Ms. [redacted], the director of [redacted] explains that [redacted] has been a ruling political party of Kazakhstan since 1999, is viewed as a secular and conservative party, and promotes reforms in civil service, economic diversity, open government, and other national interests. However, this letter does not indicate that membership with [redacted] requires outstanding achievements of its members and that recognized national or international experts judged the Petitioner as having attained outstanding achievements in his field to admit him as a member of [redacted] Submitting documentary evidence reflecting membership status is insufficient to meet the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii) without documentary evidence demonstrating that the beneficiary is a member of associations requiring outstanding achievements of their members, as judged by recognized national or international experts in their fields. Therefore, the Petitioner did not demonstrate that he fulfills this criterion.

3. "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).

In order to meet this criterion, the Petitioner must first show that the work that was displayed is his work product. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Second, the venues, whether it is virtual or otherwise, where the person's work was displayed must be artistic exhibitions or showcases. *Id.* The plain language of this criterion includes the modifier "artistic" and explicitly requires that the exhibitions or showcases be "artistic" in nature. *Id.* We only consider non-artistic

exhibitions or showcases as part of a properly supported claim of comparable evidence. *See* 8 C.F.R. § 204.5(h)(4).

The Petitioner asserts that his significant role in organizing and showcasing high-profile national events with [redacted] was public displays of his organizational and administrative work. He further claims that these events, including electoral processes, cultural celebrations, and volunteer initiatives, were strategically planned and executed under his leadership, attracting national attention and demonstrating his expertise in event organization. The Petitioner initially asserted that he played a pivotal role for [redacted] overseeing the design of invitations and flyers for its official events and approving or rejecting the design of wall banners, posters, and event catalogs.

The record includes the Petitioner's statement describing his employment history and recommendation letters from various individuals at [redacted] describing the Petitioner's skills and contributions to [redacted] as a human resources specialist, a consultant, and the chief consultant. The Petitioner's field, however, is in the business rather than the arts. *See Kazarian,* 596 F. 3d at 1122 (holding that it is neither arbitrary, capricious, nor an abuse of discretion to conclude that presentations at scientific conferences do not qualify as display of the beneficiary's work at artistic exhibitions or showcases pursuant to 8 C.F.R. § 204.5(h)(3)(vii)). In this case, the Petitioner did not submit sufficient evidence to establish that he actually displayed his work at any artistic exhibition or showcase as opposed to organizing events for a political party and approving the design of invitations, flyers, wall banners, posters, and event catalogs for political events. *See* 8 C.F.R. § 204.5(h)(3)(vii). As the Petitioner has not established that his work was displayed at an artistic exhibition or showcase, he has not met the requirements of this criterion.

4. "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).

To meet this criterion, the Petitioner must demonstrate that his salary or remuneration is high relative to the compensation paid to others in the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Evidence relevant to demonstrating high remuneration may include tax returns, pay statements, contracts, job offer letters, and comparative wage or remuneration data for the person's field, such as geographical or position-appropriate compensation surveys and organizational justifications to pay above the compensation data. *Id.* When evaluating whether a comparison between the person's documented remuneration and the remuneration in the survey is accurate, we find broad descriptions that include multiple occupations may not provide an accurate comparison to others in the field. *Id.*

The Petitioner contends that he qualifies for this criterion based on his salary as the chief consultant of the [redacted] He asserted that according to the information provided by the Kazakhstani platform, FindHow.org, the average salary for English speaking consultants and chief consultants in other organizations in Kazakhstan ranges from 314,830 to 424,728 Kazakhstani tenge (KZT) per month, which is equivalent to $685 to $923 per month, and that his total income as the chief consultant of the [redacted] from July 2020 to January 2023 was 44,908,790 KZT, which is equivalent to $97,644.78.

However, the Petitioner did not provide evidence of his salary at [redacted] While the Petitioner claims that his bank statements substantiate that his earnings significantly exceed the average salary of consultants and chief consultants in Kazakhstan, the bank statements do not support this assertion. The Petitioner submitted bank statements for his [redacted] account for periods covering from June 27, 2023 to July 25, 2023, for July 1, 2022, and from June 28, 2021 to July 1, 2021. According to the Petitioner's statement, he worked for [redacted] from January 2017 to January 2023. The bank statements show a single deposit of salary in the amount of 900 KZT on June 28, 2021. The Petitioner has not established his claimed earnings from [redacted] with unsupported testimonial evidence alone. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of Cal.*, 14 I&N Dec. 190, 194 (Reg'l Comm'r 1972)).

Furthermore, broad descriptions of consultants and chief consultants in any organizations that include multiple industries or fields may not provide an accurate comparison to others in the Petitioner's field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1). Part of this criterion requires comparing to others in the field, which demands evidence regarding individuals with comparable roles. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). Here, the Petitioner has not shown that the comparison of average salary of consultants and chief consultants in any organizations reflects his commandment of a high salary in relation to other chief consultants for a political party. *See* 8 C.F.R. § 204.5(h)(3)(ix). He did not provide sufficient evidence showing that he has earned a high salary or significantly high remuneration in comparison with those performing similar services in the field. Accordingly, the Petitioner does not meet this criterion.

5. We Reserve the Remaining Claimed Criteria

We conclude that although the Petitioner claims he meets two additional criteria relating to original contributions and a leading or critical role, because his arguments fail on any criterion discussed above, that means he cannot numerically meet the required number of at least three criteria. It is, therefore, unnecessary for us to decide on these additional grounds because he cannot numerically meet the required number of criteria. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve these issues. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

B. Final Merits Determination

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 do not need to 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 it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward that goal. U.S. Citizenship and Immigration Services has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. at 954. Here, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field and that he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2).

For the reasons we have discussed above, the Petitioner has not demonstrated his eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above-stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.