U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF J-H-P-

DATE: MAY 23, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a water emergency management, mitigation, and safety specialist, seeks classification as an individual of extraordinary ability in the sciences. *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 one of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief, stating that he meets at least three criteria.

Upon *de novo* review, we will dismiss 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 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).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *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 it fulfills the required number of criteria, is 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), *aff'd*, 683 F.3d. 1030 (9th Cir. 2012); *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 U.S. Citizenship and Immigration Services (USCIS) examines "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"). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of 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.

II. ANALYSIS

The Petitioner has held several positions within the [redacted] in South Korea and is the [redacted] of civil engineering at [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 the Petitioner met only the scholarly articles criterion under 8 C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner indicates that he is contesting five criteria: 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 judging criterion under 8 C.F.R. § 204.5(h)(3)(iv), the original contributions criterion at 8 C.F.R. § 204.5(h)(3)(v), and the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii).[1] 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.

[1] In his brief, the Petitioner only provides arguments regarding the original contributions and leading or critical role criteria.

A. Evidentiary Criteria[2]

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 presented certificates reflecting his receipt of: 1) an "Outstanding paper award" for a journal article from the 2) an " for being a model during the "2014 ' from and 3) a ' for his "dedication for local society improvement" from In order to meet this regulatory criterion, the Petitioner must demonstrate that he received nationally or internationally recognized prizes or awards for excellence in his field of endeavor. Here, he did not establish that his certificates are tantamount to nationally or internationally recognized prizes or awards for excellence in his field of water emergency management, mitigation, and safety. Accordingly, the Petitioner does not satisfy 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).

In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievements as an essential condition for membership, as judged by recognized national or international experts. The Petitioner submitted certificates reflecting his membership with the the and the In addition, the Petitioner provided a copy of his membership card with the

Regarding and the Petitioner submitted screenshots regarding the backgrounds, goals, and activities of the associations from their respective websites. The evidence, however, does not list the membership requirements or state whether membership is judged by recognized national or international experts. Accordingly, although he documented his membership with and the Petitioner did not show that they require outstanding achievements, as judged by recognized national or international experts. Similarly, while he offered a certificate and a membership card for his membership with and the Petitioner did not establish the membership and judging requirements for the associations. For the reasons discussed, the Petitioner has not demonstrated that he meets this 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).

[2] We will discuss those criteria the Petitioner has raised and for which the record contains relevant evidence.

The record contains the [redacted] 2015 edition of the [redacted] and a copy of the inside cover of the [redacted] 2015 edition. The Petitioner is listed as one of 32 editors, including 10 associate editor-in-chiefs, and one editor-in-chief. As pointed out in the Director's decision, the back cover indicates "[t]he Editorial Board may request that authors revise the manuscripts in light of the reviewers' suggestions," and "[t]he Editorial Board will make a final decision on the approval for publication of the submitted manuscripts and can request any further corrections, revisions, and deletions of the article."

A petitioner must show that he has not only been invited to judge the work of others, but also that he actually participated in the judging of the work of others in the same or allied field of specialization.[3] Here, although the Petitioner is listed on the editorial board, the Petitioner did not demonstrate that he actually reviewed or edited any of the manuscripts or otherwise performed the functions of an editorial board member showing that he participated as a judge of the work of others consistent with this regulatory criterion. Without supporting evidence, the Petitioner has not met his burden of showing that he meets this 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).

The Petitioner contends on appeal that his previously submitted recommendation letters from [redacted] (deputy director of the [redacted] and [redacted] (senior researcher at the [redacted] demonstrate his original contributions of major significance.[4] Although the letters make general claims regarding his work, they do not provide specific details establishing that the Petitioner's research has been of major significance in the field. Specifically, the letters generally indicate that the Petitioner's models have been employed by civil engineers involved in river management on an international scale. They do not, however, elaborate to which models they are referring, nor do they identify where the Petitioner's models have been implemented to show that his work has been of major significance. *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).

Ultimately, letters that repeat the regulatory language but do not explain how a petitioner's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field. *Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d at 1115. In 2010, the *Kazarian* court reiterated that the USCIS' conclusion that the "letters from physics professors attesting to [the petitioner's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122. The letters considered above primarily contain

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[3] *See* USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM)* 8 (Dec. 22, 2010), http://www.uscis.gov/laws/policy-memoranda.

[4] The record contains a third letter from [redacted] (senior researcher within the [redacted] which we have also considered for this criterion.

attestations of the Petitioner's status in the field without providing specific examples of how those contributions rise to a level consistent with major significance in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

The record also reflects that his article was cited 32 times.[5] Generally, citations confirm that the field has taken interest in a researcher's work. In this case, the Petitioner has not demonstrated that the citations to his authored work, considered both individually and collectively, are commensurate with a contribution "of major significance in the field." Similarly, the Petitioner offers evidence of his presentations at various conferences, such as the 2012 Participation in conferences demonstrates that his findings were shared with others and may be acknowledged as original based on their selection for presentation. The record, however, does not show that his presentations have been frequently cited by other researchers or have otherwise significantly impacted the field. Publications and presentations are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "*major* significance." *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115. In 2010, the *Kazarian* court reaffirmed its holding that we did not abuse our discretion in our adverse finding relating to this criterion. 596 F.3d at 1122. For these reasons, the Petitioner has not established that he meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi).

As discussed above, the Petitioner documented his authorship of scholarly articles in professional publications, such as the Thus, the Director concluded that the Petitioner satisfied this criterion, and the record supports that finding.

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).

On appeal, the Petitioner maintains that he has held leadership roles at national organizations in the Republic of Korea. Specifically, he states that "[h]e has investigated and diagnosed safety issues and has managed disaster issues while at [,] and has held the position of of Civil Engineering at ' Moreover, the Petitioner indicates that he is an editor for the and was the director of In general, a leading role is evidenced from the role itself.[6]

[5] Although the record of proceedings reflects other articles authored by the Petitioner, he did not show the citations to them.

[6] A critical role is generally one in which a petitioner was responsible for the success or standing of the organization or establishment. The Petitioner does not indicate, nor does the record reflect, that he has served in a critical role or how he has contributed to the reputations of the organizations.

Regarding his roles at [redacted] and the [redacted] the record contains certificates of appointment reflecting that the Petitioner has been appointed as a [redacted] member, and [redacted] member. Although the evidence reflects his membership on committees, it does not demonstrate whether the Petitioner performed in a leading role for [redacted] or the [redacted] or where his committee membership fits in the overall hierarchy for each organization. Based on the position levels and the lack of supporting evidence, the Petitioner has not shown that his roles were leading. In addition, while he provided a screenshot from *Wikipedia* regarding background information for [redacted] the Petitioner has not shown that [redacted] or the [redacted] has a distinguished reputation.

As it pertains to his appointment as [redacted] of the civil engineering department at [redacted] the Petitioner did not establish that this constitutes a leading position at the university. The Petitioner, for example, did not show how his position compares to the [redacted] of the other departments, members of the faculty, and administrative positions including the president of the university, to reflect that he performed in a leading role. Further, although he offered screenshots from [redacted] website regarding the president's message and the institution's history, the Petitioner did not demonstrate that [redacted] enjoys an esteemed reputation in the field.

Concerning [redacted] which we discussed under the membership criterion, the Petitioner did not provide corroborating evidence detailing his role beyond a certificate confirming his membership status. Regarding the [redacted] while the inside cover page shows that he is a member of the editorial board, it also identifies 31 other editorial board members, 10 associate editor-in-chiefs, and an editor-in-chief. The Petitioner did not sufficiently distinguish his specific role to show that it was leading for the publication. Moreover, the Petitioner did not demonstrate that [redacted] or the journal has a distinguished reputation, such as evidence showing that [redacted] is highly respected or that the journal is highly ranked among other publications in the field.

Finally, the Petitioner's certificate of membership with [redacted] indicates that he served as a director for approximately two years. We note that the submitted screenshot from [redacted] homepage reflects that it has a president. The Petitioner did show how his role compared to the role of the president or provide information detailing his responsibilities as a director. Further, while the Petitioner provided screenshots from [redacted] including a message from the president and an introduction to the organization, he did not establish that [redacted] has a distinguished reputation consistent with the requirements of this regulatory criterion. For these reasons, the Petitioner has not met his burden of satisfying this criterion.

B. Summary

As explained above, 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 listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Had the Petitioner satisfied at least three evidentiary categories, the next step would be a final merits determination that considers all of evidence in the context of whether it demonstrates that the individual "has sustained national or international acclaim" such that she is one of that small percentage who have risen to the very top of the field of endeavor, and that her achievements "have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the record in the aggregate supports a finding that the Petitioner has not established the level of expertise required for the classification sought.

III. CONCLUSION

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 J-H-P-*, ID# 397674 (AAO May 23, 2017)