U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF L-E-L-T-

DATE: NOV. 13, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a competitive bridge player, 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 satisfied two of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief, stating that he satisfies at least three criteria. He further maintains that he has established his eligibility for the classification.

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

I. LAW

Section 203(b)(1)(A) of the Act describes qualified immigrants for this classification as follows:

> (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. Alternatively, 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). In addition, if a petitioner demonstrates that the listed criteria do not readily apply to his or her occupation, then he or she may submit comparable evidence to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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).[1] 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 competitive bridge player, has competed in tournaments throughout the world. Because he has not indicated or established that he has received a major, internationally recognized award, to meet the initial evidence requirements, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner met two criteria: receipt of lesser nationally or internationally recognized prizes or awards under 8 C.F.R. § 204.5(h)(3)(i) and participation as a judge under 8 C.F.R. § 204.5(h)(3)(iv).

On appeal, the Petitioner maintains that he also meets the membership in associations criterion under 8 C.F.R. § 204.5(h)(3)(ii). We have reviewed all of the evidence in the record, and conclude that it does not support a finding that the Petitioner satisfies 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 record contains evidence that the Petitioner won awards in national bridge competitions organized by the [redacted][2] including first-place titles in the [redacted] in 2009 [redacted] 2012 [redacted] and 2014 [redacted]

[1] This case discusses 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).

[2] The Petitioner claims that this organization is "the premier and sole bridge organization in Venezuela, with over 300 active members."

According to [redacted] the president of the [redacted] the [redacted] is one of the [redacted] "most prestigious bridge events in the country." Similarly, [redacted] a bridge player who had achieved the first place position in Venezuela's historical ranking, indicates that the [redacted] "is the most important competition of teams in the country." The record also includes materials from news outlets confirming the [redacted] as "one of the most important [events] in the calendar." Accordingly, the Director determined that the Petitioner satisfied this criterion, and we agree with that finding.

> *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 Director determined that the Petitioner's membership in the [redacted] and the [redacted] did not satisfy this criterion. On appeal, the Petitioner does not challenge the Director's finding, and acknowledges that the [redacted] does not require outstanding achievements of its members.[3] Instead, he maintains that his membership in youth teams that represented his country at several international bridge competitions and tournaments constitutes "comparable evidence" of his membership in an association that requires outstanding achievement of its members. *See* 8 C.F.R. § 204.5(h)(4).

The Petitioner has not shown that being on youth bridge teams that competed in international competitions meets this criterion. He asserts that he was a member of the [redacted] from 2007 to 2013. According to the Petitioner, candidates for the team had to participate "in several trials directed by the academic director and coach of the team," which included (1) weekly online exercises; (2) weekly classes; (3) tournaments endorsed by the [redacted] and (4) weekly online tournaments. He confirms that team members were selected "based on the results of each player's performance during the trials and only the six (6) players with the best scores [were] pre-selected to the [redacted] . . . ." He maintains that he was selected to various youth teams because he achieved one of the top six scores during each respective trial.

Although the evidence indicates that the Petitioner scored well in the trials, which he claims were "rigorous," the record does not demonstrate that placing in the top six in these trials constitutes "outstanding achievements," as required under the criterion. Specifically, the record lacks information on the caliber or the number of players who participated in these trials. Without additional corroboration such as the popularity of or the general interest of bridge players in these events, the Petitioner has not demonstrated his placement constitutes "outstanding achievements."

Moreover, as discussed in the Director's decision, the Petitioner has offered insufficient evidence demonstrating that the individuals who selected him to be one of the youth team members are "recognized national or international experts in their disciplines or fields," as required under the

[3] The Petitioner has not submitted documentation regarding the membership requirements for the [redacted]

criterion. The Petitioner claims on appeal that the "academic director and coach of the team" directed the trials, but does not identify the individuals ultimately responsible for selecting the team members or discuss their qualifications. More importantly, it appears that selection to the team did not involve the actual judging of achievements by recognized national or international experts, but instead was based on simple metrics (i.e., achieving one of the top six scores). The record, as it stands, contains insufficient evidence to establish that the Petitioner's membership in youth teams satisfies this criterion.

Finally, the Petitioner has not shown that he may submit comparable evidence. Under 8 C.F.R. § 204.5(h)(4), he may offer comparable evidence if he demonstrates that the criterion does "not readily apply to [his] occupation." It appears that the membership in an association criterion under 8 C.F.R. § 204.5(h)(3)(ii) does apply to his occupation as a bridge player. Specifically, many bridge players in Venezuela are members of the [redacted] While membership in the [redacted] does not satisfy the criterion, he has not illustrated that the criterion does not readily apply to his occupation.

Regardless, submission of comparable evidence under 8 C.F.R. § 204.5(h)(4) is not a lesser standard under which a petitioner may demonstrate eligibility with evidence that does not satisfy the plain language of the criterion. Rather, the Petitioner must present comparable evidence equally demonstrative of extraordinary ability as the regulatory criteria. Here, he has not established that his youth teams required outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. Accordingly, his selection to these teams that competed internationally does not meet the membership in an association criterion or constitutes comparable evidence that satisfies 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).

The record reflects that the Petitioner served on the Appellate Committee for the [redacted] According to [redacted] people who are on this committee "analyze, evaluate, judge, and sanction any controversial bid or move by bridge competitors" in [redacted] organized events. While this evidence confirms that the Petitioner is qualified to be a judge, the record lacks sufficient documents demonstrating that he had actually participated as a judge. Specifically, he has not offered materials illustrating that he analyzed, evaluated, judged, or sanctioned any bids or moves. Without additional corroboration, the record does not support the Director's determination that the Petitioner satisfied 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 need not fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 1119-20. Nevertheless, 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.[4]

ORDER: The appeal is dismissed.

Cite as *Matter of L-E-L-T-*, ID# 667816 (AAO Nov. 13, 2017)

[4] On appeal, the Petitioner maintains that his entry into the United States will substantially benefit prospectively the United States. *See* section 203(b)(1)(A)(iii) of the Act. We will not consider this issue as he has not demonstrated his extraordinary ability in the athletics.