U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF K-G-

DATE: NOV. 16, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a journalist, seeks classification as an individual 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 Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the initial evidentiary criteria, of which she must meet at least three. On appeal, the Petitioner submits additional evidence and argues that she has demonstrated eligibility for this classification.

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

I. LAW

Section 203(b)(1)(A) of the Act states:

> 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 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). Alternately, he or she must provide evidence that meets at least three of the criteria 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).

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) (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). 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 is a journalist currently serving as an editor with the Nepali publication in the United States. She contends that she has risen to the very top of her field and has received national acclaim for her editorial and writing coverage of issues affecting socially and politically marginalized groups including women and senior citizens. The Petitioner asserts that her work as a journalist has highlighted issues relating to women's empowerment and constitutional protections, which "ultimately helped government in the process of making policies." She further asserts that her work is considered by her peers and government officials to be of major significance in the field of journalism as a whole, especially in the area of "forging a link between the unheard voice and policy making."

As the Petitioner has not established that she has received a major, internationally recognized award, she 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 criteria pertaining to awards at 8 C.F.R. § 204.5(h)(3)(i) and judging at 8 C.F.R. § 204.5(h)(3)(iv).

The record supports the Director's findings that the Petitioner meets the two criteria noted above. In addition, we find that she demonstrated that she meets the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii). Because the Petitioner has met three of the initial evidentiary criteria, as required, we will discuss the remaining documentation in the context of a final merits determination.[1] As discussed below, we find that the record in the aggregate shows, by a

[1] On appeal, the Petitioner maintains that she also meets the criteria relating to: contributions of major significance at

preponderance of the evidence, that she enjoys sustained national acclaim and is situated among the small percentage at the top of her field.

A. Evidentiary 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 Petitioner submitted evidence that she is the recipient of the 2016 award. president of provided a letter explaining that the organization "provides a national award every three years for the excellent women journalist focusing their work in the field of women empowerment at the national level." She further explains that the award was given to the Petitioner "based upon her exemplary" work "using her pen against violence" and pressuring "the government for extensive rights to women in the new constitution." She also states that the judges include members of the and the The record also contains evidence that the Petitioner was awarded the ' given by the of Nepal, for her accomplishments in writing a column in the focused on raising awareness of senior citizen's issues. Her receipt of these awards was covered in several national daily newspapers in Nepal. As the record reflects these awards are nationally recognized for excellence, the Petitioner meets the plain language for the awards criterion at 8 C.F.R. § 204.5(h)(3)(i).

> *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 Petitioner offered evidence that she served as a judge for the 2011 and " ' and as a judge of the We therefore agree with the Director that the evidence provided meets the requirements of the regulation.

> *Published 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. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

The Director found the Petitioner did not meet this criterion. Upon a review of the record, however, we find she has provided evidence that news about her professional accomplishments has been published in major media.

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8 C.F.R. § 204.5(h)(3)(v), leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii), and remuneration at 8 C.F.R. § 204.5(h)(3)(ix). We will consider the evidence relating to these criteria in our final merits determination.

The Petitioner provided several feature articles and full-length interviews about her work which were published in national newspapers in Nepal. For example, the Petitioner's work and her receipt of a national award were featured in an article published in [redacted] in [redacted] 2010. The record includes a letter from [redacted] the chairman of the [redacted] who states that his organization registers and maintains circulation statistics for print media in Nepal. He indicates that [redacted] is the number one ranked national newspaper in Nepal with a daily circulation of 350,000. Furthermore, the record includes articles about the Petitioner and her work covering issues related to women's and seniors' rights in Nepal published in [redacted] and [redacted] all newspapers with national circulation, along with evidence that she has been interviewed on [redacted] discussing issues relating to violence against women. Thus, we find that the record includes published material about the Petitioner in major media.

Accordingly, the Petitioner has provided the required initial evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

B. Final Merits Determination

In a final merits determination, we examine the material collectively to determine if it demonstrates, by a preponderance of the evidence, that a petitioner has sustained national or international acclaim, and achievements recognized in the field through extensive documentation. The Petitioner has documented her pioneering journalistic research and reporting, the impact that it has had on the political and legal landscape pertaining to women and other marginalized groups in Nepal, letters from experts in her field, data on the prestige related to newspapers that published her work, and evidence of the media attention that her reporting generated.

The record reflects the Petitioner has received several awards that have recognition at the national level, demonstrating a national awareness of her work. In addition, she has long served as one of six credited associate editors of the most widely-circulated newspaper in Nepal, [redacted] where she has earned numerous accolades from the highest public officials in Nepal, demonstrating a degree of recognition and name exposure consistent with national acclaim.

For example, her work resulted in multiple feature publications in [redacted] advocating for a revised constitutional definition of citizenship in Nepal. Previously in Nepal, a child's status as a Nepali citizen was predicated on the citizenship of his or her mother *and* father. The Petitioner wrote numerous feature articles advocating for a change to the Nepali constitution that would afford a child citizenship based upon his/her mother *or* father's status as a Nepali citizen. Several letters from government leaders and prominent journalists commend her reporting as "instrumental" to bringing this issue to the forefront of Nepali constitutional debate and ultimately leading to a change to the Nepali constitution. Furthermore, the Petitioner's writing was recognized as critical to the success of the [redacted] movement, a protest movement calling on the Nepali state to better address the problem of impunity and gender-based violence following the sexual assault of a Nepali woman by police. [redacted] editor-in-chief and senior vice

president of the [redacted] states that the Petitioner's news articles exposing the injustice and advocating for reform "played a significant role in punishing the guilty and taking that revolution to the end." Multiple national media publications, such as [redacted] and [redacted] also reported on the Petitioner's work, thereby confirming its national impact.

Further, the record reflects that the Petitioner served as editor and founder of a section of the [redacted] This role further demonstrates her status as an experienced journalist who has influenced the field at a level consistent with national acclaim. The record includes a letter from [redacted] chief editor of [redacted] who indicates that the Petitioner "lobbied successfully" for the founding of a department dedicated to covering women's issues, which led to an increase in readership and "increased the business of the [redacted]" Similarly, the corporate operations manager for [redacted] writes that she was "one of the most influent nationally [*sic*]," establishing and leading the women's department. Additionally, as previously discussed, the record establishes that the [redacted] is an organization with a distinguished reputation that enjoys the highest circulation among newspapers in Nepal.

With regard to the Petitioner's judging experience, we evaluate the significance of the evidence submitted to determine if it is indicative of her extraordinary ability as required for this highly restrictive classification. *See Kazarian*, 596 F. 3d at 1121-22. Here, the record indicates that she was chosen to serve as a judge in the [redacted] awards. Although she judged younger journalists, the general secretary of the federation confirms that the Petitioner was one of "[redacted] media figures" chosen to adjudicate the awards, and that her selection was based upon "her contributions in the fields of issues relating to women and elderly citizens," and the fact that "her writing has helped different agencies to formulate policies regarding these issues." We find this experience, together with her other achievements, to be consistent with a determination that the Petitioner is among the small percentage at the top of her field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

The influence of the Petitioner's work is further evidenced through recommendation letters from several senior government officials describing the Petitioner's reporting and its impact on policy and constitutional change in Nepal.[2] For example, the [redacted] of the [redacted] in Nepal, [redacted] writes that her work has "drawn an attention of government and the concerned authority to implement" policies regarding the rights of women. Similarly, the record includes a letter signed by nine government and media leaders in Nepal including the [redacted] of the [redacted] of the [redacted] in Nepal, and the former [redacted] of the [redacted] They state that the Petitioner "has been the leading journalist in writing about the issues of women and elderly citizens," and that "her writings have helped the government formulate policies" that are included in the new constitution of Nepal promulgated in 2015.

[2] We discuss only a sampling of these letters, but have reviewed and considered each one.

Additionally, the former [redacted] of Nepal, [redacted] writes that he was specifically influenced in his policy-making by the Petitioner's writing. He details how the Petitioner's work was instrumental in his formulation of new policies about the rights of women and senior citizens, and he commends her as a "path-founder of government."

The record also includes ample documentary evidence supporting the aforementioned references' statements regarding the significance and originality of the Petitioner's work.

III. CONCLUSION

When considered in its totality, the evidence submitted supports a finding that the Petitioner possesses extraordinary ability consistent with a finding that she is one of a small percentage at the very top of the field of endeavor and that she has documented sustained national acclaim. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *Kazarian*, 596 F.3d at 1119-20.

ORDER: The appeal is sustained.

Cite as *Matter of K-G-*, ID# 595327 (AAO Nov. 16, 2017)