U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF W-S-S-

DATE: NOV. 22, 2017

APPEAL OF TEXAS SERVICIE CENTER DECISION

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

The Petitioner, a professor and researcher specializing in the strategic management of healthcare organizations, seeks classification as an individual of extraordinary ability in business. *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 Texas 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 he must meet at least three.

On appeal, the Petitioner submits additional evidence and asserts that he satisfies the membership, published material, and original contributions criteria.

Upon *de novo* review, we will dismiss 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

At the time of filing, the Petitioner was working as a professor in the department of healthcare management at [redacted] As 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 that the Petitioner met the judging and scholarly articles criteria. *See* 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi). On appeal, the Petitioner maintains that he also meets the membership, published material, and original contributions criteria under 8 C.F.R. § 204.5(h)(3)(ii); (iii); and, (v). We have reviewed all of the evidence in the record of proceedings, and it does not support a finding that the Petitioner meets the plain language requirements of at least three criteria.

A. Evidentiary Criteria

> *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).

On appeal, the Petitioner asserts that he meets this criterion based upon his selection as a tenured professor at [redacted] and his appointment as a vice chairman of the [redacted]

The Director determined that the evidence did not show that these entities were associations that require outstanding achievements of their members. We agree.

The material in the petition indicates that is an academic institution of higher learning located in South Korea, not an association. Moreover, while the record shows that the university employs a rigorous process to select professors for tenured positions, the evidence does not demonstrate that nationally or internationally recognized experts in the field participate in this hiring process, or that outstanding achievements are required of the selectees. As such, the record does not demonstrate that the Petitioner's selection as a tenured professor at satisfies this criterion.

In support of his contention that his appointment as a vice-chairman of establishes his eligibility, the Petitioner has submitted a foreign language document, asserting that it is the organizational articles for the society. The partially translated section of the document indicates that individual membership in is fee-based and open to individuals engaged as researchers or administrators in the field of hospital management. It also notes that the chairman of the society may appoint vice-chairmen, but does not specify that the chairman be a nationally or internationally recognized expert in the field or that selection of vice-chairmen post be based upon the selectees' outstanding achievements. Further, any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit a properly certified English language translation of the full document, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims that his appointment satisfies the requirements of this criterion.

> *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 Petitioner claims eligibility under this criterion based upon the submission of webpages from four foreign language online publications, reporting survey results that he presented at a "professional seminar where about 150 hospital executives and managers attended."[1] The foreign language webpages provided appear to carry the following English language titles: and The Director determined that the Petitioner offered insufficient evidence that the published material referencing the Beneficiary was about him, relating to his work in the field. He also found that the Petitioner did not show that these publications qualify as major media, professional publications, or major trade publications. We agree.

[1] The Petitioner has not provided evidence about the seminar where he claims to have presented survey results to others in the field, other than the foreign language webpages described above.

The Petitioner has submitted no certified translation of the article and uncertified translations of the and articles. Because the Petitioner did not submit properly certified English language translations of the documents, we cannot meaningfully determine whether the translated material is accurate and thus supports his claims that the articles are about him. 8 C.F.R. § 103.2(b)(3). Thus, the Petitioner's claim rests solely on the article from .

The Petitioner indicated in his response to the Director's request for evidence that the publishes He asserted, without providing corroborating evidence, that the publication "remains the number one choice in the fiercest competition of the Internet media in South Korea." Additionally, he submitted a copy of a webpage that explained it changed its name to include the word "doctor" in its title to more clearly indicate to people that it was a "news media in the specialized field of health and medical area". However, the Petitioner did not document this publication's circulation relative to other online publications, or provided evidence establishing that the publication is otherwise considered major media. Similarly, as noted by the Director in his denial, the record contains conflicting information regarding the nature of the publication, as it claims to be a specialized source of medical news for the Korean medical professionals and the general populace. On appeal, the Petitioner submits no new evidence clarifying the nature of the publication. The Petitioner, therefore, has not established that constitutes either a professional or major trade publication or another form of major media.

In summary, the evidence provided does not show that the online articles are about the Petitioner, relating to his work in the field, or that they appeared in professional or major trade publications, or other major media. As such, we find that the Petitioner has not met 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 contains evidence reflecting that the Petitioner reviewed articles written by his peers while serving as the executive editor in 2014 and 2015 for the Based upon his experience editing the journal, we agree with the Director's finding that the Petitioner has satisfied 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).

As evidence of making contributions of major significance, the Petitioner provided his publications and presentations, citation evidence for his published work, and letters of recommendation from colleagues. The Director found that this documentation did not demonstrate the Petitioner's original contributions of major significance in the field. For the reasons outlined below, we conclude that the Petitioner has not submitted sufficient documentary evidence showing that he meets the plain language of this criterion.

The Petitioner emphasizes on appeal that he has conducted original scholarly research which has contributed to his academic field of interest as a result of obtaining his Ph.D in Administration Health Services in the United States. The record demonstrates that the Petitioner has participated in research activities resulting in 25 published articles and two books. He claims that his publications have been internationally and nationally recognized by his peers in the field.[2] He highlights the significance of three articles published in international journals in particular, noting that the articles were cited 51 times by other scholars. Although the Petitioner claims that citations to his work demonstrate a contribution of major significance, he has not demonstrated that the number of citations for his articles is significant, or what effect his work has had on the field.

Likewise, the Petitioner has published three books, including a textbook for which he received an award from his employer. He has submitted evidence demonstrating that the online sale of his books. However, he has not demonstrated that the subject matter presented in his books has been widely adopted or is otherwise considered to be of major significance within the field.

On appeal, he also provides copies of three of the five previously submitted professional recommendations from his research associates and academic colleagues, indicating that these individuals support his contributions to the field.[3] professor and chair of the Division of Public Administration at the explains that she began working with the Petitioner in 2003 as assistant professors at and that she continues to collaborate with him. She describes the Petitioner as an "exceptionally competent, thorough, and productive healthcare management researcher, expert, and professor." While she asserts that he is an "extraordinary researcher who has made and will continue to make substantial contributions [to the field]," she does not specify how he has made contributions of major significance to the field.

assistant professor of Pharmacy Administration at the has participated in research projects with the Petitioner and emphasizes that he was "among the first to realize the value of diversification in [the] healthcare industry." noted that the Petitioner developed a which provided Key Performance Indicators for emergency medical centers to use to evaluate their performance. states that the Petitioner's was disseminated through the field at "literature review and brown bag lunches." However, the record does not show that has been widely adopted by healthcare institutions, nor has other material been provided that demonstrates that the Petitioner's

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[2] With respect to the Petitioner's published work, the regulations contain a separate criterion concerning the authorship of scholarly articles in professional publications. 8 C.F.R. § 204.5(h)(3)(vi). In *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), the court held that publications and presentations are not sufficient evidence under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance" in the field. In 2010, the *Kazarian* court reaffirmed its holding that we did not abuse our discretion in finding that the petitioner had not demonstrated contributions of major significance. 596 F.3d at 1122. There is no presumption that every published article or conference presentation is a contribution of major significance in the field; rather, a petitioner must document the actual impact of his article or presentation.

[3] While we discuss only a sampling of these letters, we have reviewed and considered each letter present in the record.

recommendations for improvements in healthcare administration are considered to be of major significance within the field.

Contributions of major significance connotes that the Petitioner's work has significantly impacted the field. *See* 8 C.F.R. § 204.5(h)(3)(v); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 135-136 (D.D.C. Dec. 16, 2013). As discussed above, the Petitioner has not shown through his citation history or other evidence that his work, once published or presented, has been of major significance in the field. For these reasons, he has not met 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).

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

III. CONCLUSION

The Petitioner has not submitted the required initial evidence that establishes his receipt of a one-time achievement or shows that he meets at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, after reviewing the record in the aggregate, we conclude that it does not sufficiently demonstrate the Petitioner's sustained national or international acclaim or that his achievements have been recognized in the field through extensive documentation. For these reasons, he has not established he qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of W-S-S-*, ID# 677380 (AAO Nov. 22, 2017)