U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF V-G-

DATE: OCT. 5, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a rowing coach, 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 Texas Service Center denied the petition, concluding that the Petitioner had not satisfied any of the regulatory criteria, of which he must meet at least three.

The matter is now before us on appeal. In his appeal, the Petitioner submits an additional document and a brief maintaining that he meets 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 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).

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 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), *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 previously participated as a rower in Ukraine competitions and international tournaments. He currently works as a rowing coach at the [redacted] As the Petitioner has not 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 did not meet any of the criteria. On appeal, the Petitioner maintains that he meets 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), and the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii). 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[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).

On appeal, the Petitioner contends that he has won six medals as a rower in international competitions from to including one gold, two silvers, and three bronzes. A review of the record of proceedings reflects that the Petitioner submitted photographs of various medals. As additional evidence under this criterion, the Petitioner offered a letter from the Petitioner's former coach, who stated that the Petitioner was the "champion of champion In addition, the Petitioner presented a letter from executive director for the who indicated that the Petitioner received medals at the following events: the ' in 2005, 2006, and 2007; the in 2008; and the in 2010. The record does not include sufficient information or documentation, however, to establish that the described awards are nationally or internationally recognized for excellence in the field.

Moreover, the record contains a screenshot from indicating that the Petitioner was part of a pair that finished second at the in Russia. The Petitioner, however, did not establish that his silver medal at the event constitutes a nationally or internationally recognized prize or award for excellence, as required by the plain language of this criterion.

Finally, the Petitioner presents on appeal a letter from executive director for regarding awards received by athletes coached by the Petitioner. As this criterion relates to the petitioner's receipt of prizes or awards, the accomplishments of athletes coached by the Petitioner will be addressed under the original contributions criterion at 8 C.F.R. § 204.5(h)(3)(v).[2] Further, the Petitioner did not show that he has received any prizes or awards as a rowing coach. For the reasons discussed, the Petitioner has not met his burden of demonstrating eligibility for 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).

The record includes evidence that the Petitioner participated as a rower at the 2012 on the The Petitioner's membership on the is, in effect, an association membership that requires outstanding achievements, as judged by

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

[2] *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)* 12 (Dec. 22, 2010), http://www.uscis.gov/laws/policy-memoranda.

recognized national experts in rowing consistent with the regulation at 8 C.F.R. § 204.5(h)(3)(ii). Accordingly, the Petitioner has established that he meets 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).

In general, in order for published material to meet this criterion, it must be about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. Furthermore, the regulation requires the title, date, author, and necessary translation.

The Petitioner presented partial translations of screenshots from and None of translations include the authors as required by the regulation at 8 C.F.R. § 204.5(h)(3)(iii). In addition, the regulation at 8 C.F.R. § 103.2(b)(3) specifically requires that any foreign language document that is submitted to USCIS must be accompanied by a full and certified English language translation. Although the partial translations mention the Petitioner, he did not establish that the screenshots are about him as he did not offer the required full English language translations. In fact, it appears that screenshots are about a in Belgium, scholarships for athletes and coaches, and the Articles that are not about the petitioner do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin,* 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles about a show are not about the actor). Finally, the Petitioner did not provide evidence demonstrating that the websites are major media. Therefore, the Petitioner has not shown 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).

As previously discussed, the Petitioner submitted a letter from indicating that the Petitioner coached an athlete who finished in first place at the and two athletes who finished second and third at the . The record reflects that the Petitioner offered a previous letter from stating that the Petitioner coached athletes who won five gold medals and one bronze medal at the and in Florida. We note that neither of letters identifies each of the athletes' names. Regardless, the Petitioner has not established the significance of the named competitions or demonstrated the influence of his coaching beyond the local rowers at *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 as a whole).

Likewise, the Petitioner submitted a letter from manager at the who stated that the Petitioner worked with children of

various age groups. The letter, however, does not explain how the Petitioner made original contributions, and how they are of major significance to the field. The Petitioner did not establish his impact outside of the school, so as to show that his contributions are of major significance consistent with this regulatory criterion.

In addition, the record contains two additional recommendation letters from head coach at and former president of who discussed the Petitioner's "unique mix of rare and required skill sets." Having a diverse skill set is not a contribution of major significance in and of itself. Rather, the record must be supported by evidence that the Petitioner has used those unique skills to impact the field at a significant level.

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. *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 attestations of the Petitioner's status in the field without providing specific examples of how his contributions rise to a level consistent with major significance in the field. Repeating the language of the statute or regulations does not satisfy a petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, No. 95 CIV. 10729, *1, *5 (S.D.N.Y. Apr. 18, 1997). Moreover, 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). Without supporting evidence, the Petitioner has not met his burden of showing that he has made original contributions of major significance in the field.

B. Summary

As explained above, the record satisfies only one of the regulatory criteria. As a result, 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).

III. CONCLUSION

Had the Petitioner satisfied at least three evidentiary categories, the next step would be a final merits determination that considers all of the filings in the context of whether or not the Petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor," and (2) that the individual "has sustained national or international acclaim and that his or 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.

For the above stated reasons, the Petitioner has not met his burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013).

ORDER: The appeal is dismissed.

Cite as *Matter of V-G-*, ID# 12598 (AAO Oct. 5, 2016)