



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF Y-S-

DATE: OCT. 12, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a film and television production company executive, seeks classification as an individual of “extraordinary ability” in the arts. *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, Nebraska Service Center, denied the petition, concluding that the Petitioner had not provided documentation satisfying the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

The matter is now before us on appeal. In his appeal, the Petitioner argues that the Director erred in finding he did not meet at least three of the ten regulatory criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner further states that the evidence demonstrates his standing as an individual of extraordinary ability.

Upon *de novo* review, we will sustain the Petitioner’s appeal. For the reasons discussed below, the Petitioner has established his eligibility for the classification sought.

I. LAW

The Petitioner may demonstrate his extraordinary ability through sustained national or international acclaim and achievements that have been recognized in her field through extensive documentation. Specifically, 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,

(b)(6)

Matter of Y-S-

(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 achievements in the field through a one-time achievement (that is a major, internationally recognized award). If he does not submit this documentation, then he must provide sufficient qualifying evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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); *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

A. Evidentiary Criteria

The Petitioner is the chief executive officer (CEO), co-founder, and executive producer of [REDACTED] a film and television production company that he established in 1998. In this case, the Petitioner has not shown that he is the recipient of a qualifying award at a level similar to that of an Oscar from the Academy of Motion Picture Arts and Sciences. As such, he must provide at least three of the ten types of documentation listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).

The Director concluded that the Petitioner met the judge of the work of others criterion under 8 C.F.R. § 204.5(h)(3)(iv). For instance, the Petitioner participated as a jury member at the [REDACTED]. Accordingly, the record supports the Director's finding that the Petitioner meets this criterion.

Matter of Y-S-

In addition, we find that the Petitioner has met the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii). For example, [redacted] published an article about him and his company's expansion entitled [redacted]. The Petitioner offered supporting documentation indicating that [redacted] is a major trade publication in the film and television industry. The Petitioner has therefore met the published material criterion.

Furthermore, the Petitioner has performed in a leading role for a distinguished organization under the regulation at 8 C.F.R. § 204.5(h)(3)(viii). As CEO and co-founder of [redacted] the Petitioner has led the company's business operations and coordinated its television and film productions. He provided a [redacted] report entitled [redacted] listing [redacted] among "the principal players in the Russian film production sector" and identifying the company as the largest private film studio in the [redacted]. The record also included documentation of awards received by [redacted] and news articles about the company as further evidence of its distinguished reputation in the television and film industry. Accordingly, the Petitioner has met this third criterion.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will conduct a final merits determination. We will consider the entire record in the context of whether the Petitioner has demonstrated: (1) that he enjoys a level of expertise indicating that he is "one of a small percentage who have risen to the very top of the field"; and (2) that he has sustained national or international acclaim and that his achievements have been recognized in the field. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Based on the documentation, and consistent with *Matter of Price*, 20 I&N Dec. 953 (Act. Assoc. Comm'r 1994), the Petitioner has made the requisite showing.

The Petitioner provided articles about him and his work for [redacted] in publications such as [redacted] and [redacted]. The Petitioner was also mentioned in articles on the websites of [redacted] and [redacted] news agency. We find that the submitted news coverage of the Petitioner in major trade publications and other major media is indicative of his sustained national or international acclaim in the television and film industry.

At the [redacted] in [redacted] the Petitioner received the [redacted] (2009) for his significant contribution to the development of the Russian television industry. The Petitioner also provided media coverage of the forum and its awardees as evidence of his prize's national recognition in the television industry.

With respect to the Petitioner's contributions in the Russian film and television industry, [redacted] Director of Research for the [redacted] and a

¹ The [redacted] is a public service organization that gathers and circulates information about the audiovisual industry in Europe.

Matter of Y-S-

former professor in the [redacted] stated that he is “familiar with [the Petitioner’s] work by reputation.” [redacted] mentioned that the Petitioner founded and leads [redacted] “one of Russia’s largest and best known film and television companies.” [redacted] further noted that the Petitioner oversaw [redacted] construction of “Russia’s first purpose-built film and television-making complex in sixty years” and that his company has “produced or serviced over 400 film and television projects.” In addition, [redacted] indicated that as of 2012, [redacted] “held 14.1% market shares of Russian film studios by number of stages and stage area size, the largest of any private film and television studio in Russia.” [redacted] statements are supported by online news articles and other documentary evidence in the record. For instance, the website of the [redacted] reported that [redacted] spoke at a conference on the status of the Russian film industry at [redacted] shortly after the company’s film studios opened in [redacted] and that in his remarks, [redacted] acknowledged the expansion of [redacted]. Moreover, online news articles reflect that the Petitioner has fostered development of the Russian film and television market internationally by entering into groundbreaking co-production agreements with companies in China and India.

In addition to his leading role for [redacted] the Petitioner is a member and serves on the governing boards of the [redacted] and the [redacted]. The Petitioner submitted evidence indicating that membership in the [redacted] is “limited to only 27 individuals” and is reserved for those with major contributions in the Russian film and television industry. Furthermore, films produced by the Petitioner have been screened at prestigious international film festivals such as the [redacted] and the [redacted]. Lastly, the Petitioner participated as a television series’ juror with four other international experts at the [redacted].

The record, in the aggregate, confirms that the Petitioner enjoys a level of expertise consistent with a finding that he is one of a small percentage who has risen to the very top of the field of endeavor, that he has sustained national or international acclaim, and that his achievements have been recognized in the field of expertise. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Accordingly, the Petitioner has established by a preponderance of the evidence that he is eligible for the exclusive classification sought.

III. CONCLUSION

The Petitioner has submitted qualifying evidence under at least three of the ten evidentiary criteria and has documented that he has attained a “level of expertise indicating that [he] is one of that small percentage who have risen to the very top of the field of endeavor” and “sustained national or international acclaim.” The Petitioner’s achievements have been recognized in his field of expertise. He has shown that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the Petitioner has demonstrated his eligibility for the benefit sought under section 203 of the Act.

Matter of Y-S-

The burden is on the Petitioner to show 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). Here, the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of Y-S-*, ID# 46963 (AAO Oct. 12, 2016)