



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

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

MATTER OF P-H-

DATE: APR. 26, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a horse breeder, 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 has demonstrated eligibility.

Upon *de novo* review, we will sustain 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.

Finally, the statute and the regulation require that the petitioner seek to continue work in his area of expertise in the United States. Section 203(b)(1)(A)(ii) of the Act. Such evidence may include letters from prospective employers, items demonstrating prearranged commitments such as contracts, or a statement from the petitioner detailing plans for continuing work in the area of extraordinary ability in the United States. 8 C.F.R. § 204.5(h)(5).

II. ANALYSIS

The Petitioner is a thoroughbred horse breeder. 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). The Director determined that the Petitioner met the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv) and the contributions criterion at 8 C.F.R. § 204.5(h)(3)(v).

On appeal, the Petitioner maintains that he meets several additional criteria. We agree. In addition, after reviewing all of the submitted material in the context of a final merits decision, we conclude

that the Petitioner has shown a history of achievements and experience indicative of someone at the top of his field of endeavor.

A. Evidentiary Criteria

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 provided evidence showing that two of United Kingdom's horse racing dignitaries interviewed him after the Petitioner's horse beat the race favorite. The interview was broadcast live on [REDACTED]. The Petitioner has demonstrated that [REDACTED] averages millions of viewers for its broadcasts of major races, thus we find that it qualifies as major media. With this evidence, the Petitioner has satisfied this criterion and we withdraw the Director's adverse findings to the contrary.

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 provided letters showing that he evaluates thoroughbred horses for those wishing to purchase them. We therefore agree with the Director that he has met 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).

The Petitioner has submitted evidence exhibiting his contributions to the thoroughbred horse racing community through breeding several champion horses. We therefore agree with the Director that the Petitioner has met this criterion.

B. Final Merits Determination

In a final merits determination, we examine the material in a collective nature to determine if the individual has demonstrated, by a preponderance of the evidence, that he or she has sustained national or international acclaim, and achievements recognized in the field through extensive documentation. Section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3).

In this case, the Petitioner has shown a history of success and achievements indicative of someone at the very top of his field. He moved from Great Britain to [REDACTED] Florida, in 1989 and brought with him his stallion. By breeding his horse, he introduced two new bloodlines to the American market and created offspring with no close genetic replications. His unconventional approach has been largely successful

and garnered him a description as an “intuitive genius” in the field. [REDACTED] a product of this process, had \$120,668 in winnings.

Perhaps the Petitioner’s most successful horse, [REDACTED] finished second at the [REDACTED] a graded stakes race¹ in England in 1998. [REDACTED] success was recognized in major media, such as [REDACTED] which covered a win at [REDACTED] trainer, [REDACTED] is currently considered to be the best trainer in the world. He went on to train the 2010 [REDACTED] winning horse, [REDACTED] credits the Petitioner’s bred horse in large part with his success, saying that his experience with [REDACTED] laid the framework for his future. The Petitioner’s horse thereby helped facilitate the career of one of the world’s premier horse trainers.

As discussed above, the Petitioner was interviewed on [REDACTED] a popular British [REDACTED] [REDACTED] In addition to this appearance, the Petitioner provided articles about him and his work in major print publications. A 1986 article published in Britain’s daily newspaper, [REDACTED] discussed the Petitioner’s improbable rise in the world of horse breeding. At the time, [REDACTED] had a daily circulation of approximately 750,000. Other trade publications, such as [REDACTED] and [REDACTED] also reported on his horses’ victories.

The record shows the Petitioner has continued to breed horses that are sold for large sums. One recent foal he bred was 1 of 32 sired by a given stallion that year. Of these 32, the Petitioner’s horse was the only one purchased, and it sold for \$17,000. Perhaps more significantly, the Petitioner has evaluated the breeding suitability of numerous horses for both individuals and well-established horse training facilities on several continents. All relied on the Petitioner’s expertise in European and North American breeding, and in particular, his judgment in applying cross-breeding methods to produce winning and highly sought after foals. This is the type of experience and acclaim required for eligibility under this restrictive immigrant classification.

The evidence provided establishes that the Petitioner has received both national and international acclaim as a horse breeder. His accomplishments are representative of those who have risen to the top of his field. *See* 8 C.F.R. § 204.5(h)(2). He has therefore demonstrated his extraordinary ability in accordance with the requirements of this immigration benefit.

C. Continued Work in Area of Expertise

According to the statute and the regulations, the Petitioner must seek to continue work in his area of expertise in the United States. Section 203(b)(1)(A)(ii) of the Act; 8 C.F.R. § 204.5(h)(5). The Petitioner has offered several breeding contracts showing his future work. These documents demonstrate that he will continue working in his area of expertise and they therefore satisfy this requirement.

¹ A graded stakes race is a high-level North American race that showcases top horses from the United States and abroad.

III. CONCLUSION

The Petitioner established that he has extraordinary ability as a horse breeder. By demonstrating that he seeks to continue to work in his area of extraordinary ability, and there being no indication otherwise, we are satisfied that the Petitioner's entry will substantially benefit prospectively the United States.

ORDER: The appeal is sustained.

Cite as *Matter of P-H-*, ID# 324463 (AAO Apr. 26, 2017)