



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

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

MATTER OF G-H- INC.

DATE: APR. 26, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a humanitarian aid organization, seeks to classify the Beneficiary 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 Beneficiary had satisfied only one of the regulatory criteria, of which he must meet at least three.

On appeal, the Petitioner presents previously submitted documentation and argues that the Beneficiary meets at least two additional 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 a beneficiary's 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). Otherwise, the petitioner must provide 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 evidence that satisfies at least three criteria, we will then determine whether the totality of the record shows sustained national or international acclaim and demonstrates that the beneficiary is among the small percentage at the very top of the field of endeavor.

## II. ANALYSIS

The Beneficiary is a managing partner and co-founder of organizations advocating for human rights in Nigeria. Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it 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 Beneficiary met the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner maintains that the Beneficiary satisfies the awards criterion under 8 C.F.R. § 204.5(h)(3)(i) and the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii).<sup>1</sup> We have

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<sup>1</sup> Although it previously claimed the Beneficiary's eligibility for the membership criterion under 8 C.F.R. § 204.5(h)(3)(ii) and the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v), on appeal the Petitioner does not contest the Director's finding, offer further arguments, or submit additional evidence for these criteria, nor does the record support a finding that the Beneficiary meets them. Accordingly, we will not address these criteria in our decision.

reviewed all of the evidence in the record, and it does not support a finding that the Beneficiary fulfills the plain language requirements of at least three criteria.

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 photographs of four plaques that the Beneficiary received from the local Nigerian district of [REDACTED] for his local contributions and service, including a plaque for being the [REDACTED] club president for 2012/2013. In addition, the Petitioner provided two certificates of appreciation from the local Nigerian district of [REDACTED] acknowledging the Beneficiary's roles and contributions in organizing seminars, and a letter from [REDACTED] former [REDACTED] president for Nigerian district [REDACTED] who restated the Beneficiary's [REDACTED] awards. In order to meet the plain language of this criterion, the Petitioner must establish that the Beneficiary's awards are nationally or internationally recognized for excellence in the field. Although the Beneficiary received awards, the Petitioner did not show that the awards are nationally or internationally recognized for excellence beyond [REDACTED].

The Petitioner also presented a letter from [REDACTED] president for Nigerian district [REDACTED] and [REDACTED] governor for Nigerian district [REDACTED] indicating that, during the Beneficiary's tenure as president, the club received the [REDACTED] presidential award. The Petitioner provided the criteria for the [REDACTED] presidential award, which is "given to outstanding [REDACTED] for distinguishing themselves in excellent humanitarian services." Furthermore, [REDACTED] stated that the Beneficiary led the club to receive an award of excellence as the second best club in the district. Again, the letters and award criteria do not demonstrate that these are nationally or internationally recognized for excellence in the field. In addition, this regulatory criterion requires documentation of the Beneficiary's receipt of prizes or awards. Here, the letters reflect that the local [REDACTED] received the [REDACTED] presidential award and second best club in the district award, rather than the Beneficiary himself. The Petitioner has not established that these awards should be attributed to him personally.<sup>2</sup> For these reasons, the Petitioner did not establish that the Beneficiary meets this criterion.

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<sup>2</sup> While they do not satisfy this criterion, awards garnered by the local [REDACTED] Nigerian district during the Beneficiary's presidency are relevant for the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii), which is discussed later in this decision

*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 indicates the Beneficiary's eligibility for this criterion based on articles posted on the following websites: [REDACTED]

[REDACTED] and [REDACTED] In addition, the Petitioner submits photographs with captions from [REDACTED] and [REDACTED] In order for published material to meet this criterion, it must be about the Beneficiary, include the title, date, and author of the material, and be published in professional or major trade publications or other major media.

As an initial matter, the Petitioner did not establish that any of these sources are professional or major trade publications or other major media. It did not provide documentation regarding the readership of the publications or websites, or other information or rationale for considering the sources to be qualifying. Moreover, seven of the articles do not contain the titles, dates, or authors of the material as required.

In addition, the articles are not about the Beneficiary; rather, they relate to various community projects of the [REDACTED] of [REDACTED] such as polio eradication, medical screenings, and career choices. Although the Beneficiary is mentioned or quoted, the articles do not reflect published material about the Beneficiary consistent with the plain language of 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). The submission from [REDACTED] contains a photograph with a caption identifying the Beneficiary; however, there is not an accompanying article that discusses the Beneficiary or his work. The Petitioner also provided a photograph from [REDACTED] that includes a caption indicating that members of the [REDACTED] of [REDACTED] were involved in a peace walk. Accordingly, the Petitioner has not demonstrated that these publications contain published material about the Beneficiary relating to his work. For all of the above states reasons, the Petitioner has not shown that the Beneficiary satisfies this regulatory criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).*

The Director determined that the Beneficiary met this criterion based on his role with [REDACTED] A review of the record of proceedings supports the Director's findings for this criterion.

B. Summary

As explained above, the record only satisfies 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).

Had the Petitioner satisfied at least three evidentiary categories, the next step would be a final merits determination that considers all of evidence 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 that the Beneficiary has the level of expertise required for the classification sought.

III. CONCLUSION

For the foregoing reasons, the Petitioner has not shown that the Beneficiary qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is dismissed.

Cite as *Matter of G-H- Inc.*, ID# 351752 (AAO Apr. 26, 2017)