U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-J-R-

DATE: DEC. 19, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a video producer and director, 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 of the Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner did not submit sufficient initial evidence. Specifically, he did not establish that he received a major, internationally recognized award or satisfied any of the ten regulatory criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief and supporting documentation, most of which he had presented to the Director, and states that he qualifies for the classification because he has offered evidence of a one-time achievement.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act describes qualified immigrants for this classification as follows:

> (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. Alternatively, he or she 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).

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).[1] 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

The Petitioner indicates that he intends to work as a video producer and director in the United States. He states that he has edited and served as post-production supervisor for television advertisements and music videos. On appeal, he maintains that he won a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3). We have reviewed all of the evidence in the record, and determined that it does not support a finding that the Petitioner has a one-time achievement or has presented documents satisfying at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).

A. One-Time Achievement

Given Congress' intent to restrict this category to "that small percentage of individuals who have risen to the very top of their field of endeavor," the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739. The House Report specifically cited to the Nobel Prize as an example of a one-time achievement; other examples which enjoy major, international recognition may include the Pulitzer Prize, the Academy Award, and an Olympic medal. The regulation is consistent with this legislative history, stating that a one-time achievement must be a major, internationally recognized award. 8 C.F.R. § 204.5(h)(3). The selection of Nobel Laureates, the example Congress provided, is reported in the top media internationally regardless of the nationality of the awardees, reflects a familiar name to the public at large, and includes a large

[1] This case discusses 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).

cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, Congress' example clearly shows that the award must be global in scope and internationally recognized in the field as one of the top awards.

On appeal, the Petitioner asserts that his receipt of a [redacted] for "[redacted]" in 2007 at the [redacted] constitutes his one-time achievement. According to his submitted documentation, he was awarded the [redacted] for his work on "[redacted]," a music video produced for the musical group "[redacted]." A printout from www[redacted] dated March 2, 2017, lists him as one of the video's two directors.[2]

It is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). As such, he must offer sufficient evidence demonstrating that his 2007 Latin Grammy Award qualifies as "a major, international[ly] recognized award." *See* 8 C.F.R. § 204.5(h)(3). The Petitioner has submitted no documentation, such as media reports or other credible evidence, discussing the [redacted] or confirming that they are major awards that enjoy international recognition. He has not presented, for example, evidence that the awards are widely reported by international media comparable to other major, globally recognized awards such as an Academy Award or an Olympic medal. Without corroborating evidence verifying the awards' status and international recognition, the Petitioner has not demonstrated that his [redacted] qualifies as a one-time achievement.

B. Evidentiary Criteria[3]

As the Petitioner has not established his receipt of a major, internationally recognized award, to meet the initial evidence requirements, he must satisfy at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x). He has not made such a showing.

> *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).

As discussed above, the Petitioner documented his receipt of a [redacted] award in 2007. Because the record supports a finding that his prize is both nationally and internationally recognized for excellence, the Petitioner established that he meets this criterion.

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[2] At the time he filed the petition, the Petitioner was not listed as one of the winners on www.[redacted] After the Director pointed out this discrepancy in his request for evidence, the Petitioner contacted the awarding entity, which then added his name to the list of nine winners.

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

> *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 submits two articles from [redacted] which are accompanied by certified English translations. Although one article focuses on his career and accomplishments, the second article entitled [redacted] primarily discusses [redacted] a Venezuelan production company. While the Petitioner worked for this company, the published material mentions him only once. As such, he has not shown that the second article is about him, rather than the company's achievements and current projects.

As noted, the record contains one article that is about the Petitioner as relating to his work in the field of video direction and production. There is no evidence, however, demonstrating that the article appeared in a professional publication, a major trade publication, or other major media as required under the regulation. The record does not include circulation statistics or distribution information about [redacted] which appears to be a Spanish-language [redacted] based publication. The Petitioner has not established this publication is a professional or major trade journal. Without additional corroboration, the Petitioner has not demonstrated he meets 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 Petitioner presented documents indicating that he served on the [redacted] for the [redacted] in 2009. The Director determined that the Petitioner satisfied this criterion, and we concur with this finding.

> *Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.* 8 C.F.R. § 204.5(h)(3)(vii).

Although the Director found that the Petitioner met this criterion based on exhibitions of his still photography, the record does not support this finding. The evidence demonstrates that the Petitioner displayed his photography at three art exhibitions in 2010 (two in [redacted] Florida, and one in [redacted] California).[4] He exhibited his photographs under the name of [redacted] the artistic name he has adopted for his work as a photographer. He has not presented evidence showing that he displayed his work in video direction or production.

The Petitioner's claimed field of endeavor is video direction and production. Specifically, he indicates in part 6 of his petition that he intends to enter the United States to work as a "video

[4] The record also contains photocopies of foreign language advertisements and certificates that appear to indicate the Petitioner displayed his photography in other shows. As he has not offered a certified English translation for these documents, he has not established their evidentiary value. *See* 8 C.F.R. § 103.2(b)(3).

producer and director" and to "produce and direct video and movie productions." He has not shown that the display of his photographs is in the field for which classification is sought, which is video direction and production. His evidence, therefore, does not establish the display of his work in the field at artistic exhibitions or showcases.[5]

III. CONCLUSION

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. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we have reviewed the record in the aggregate, and conclude that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought.

ORDER: The appeal is dismissed.

Cite as *Matter of C-J-R-*, ID# 669542 (AAO Dec. 19, 2017)

[5] Even if the Petitioner meets the display criterion under 8 C.F.R. § 204.5(h)(3)(vii), the record does not demonstrate that he satisfies two additional criteria.