U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF B-Z-

DATE: FEB. 7, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a physician of traditional Chinese medicine, seeks classification as an individual of extraordinary ability in the sciences. *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 Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied two of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner states that he satisfies at least three criteria and provides additional evidence.

Upon *de novo* review, we will dismiss the appeal.[1]

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to qualified immigrants with extraordinary ability 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

[1] On December 1, 2017, we sent a letter to the Petitioner requesting a new Form G-28 if he wishes counsel to represent him on this matter. We did not receive a response and will send our decision to the Petitioner.

(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). If that petitioner does not submit this evidence, then 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) (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). 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 is currently a physician at the [redacted] and he has stated his intent to continue practicing traditional Chinese medicine in the United States. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director found that the Petitioner met the criteria for judging the work of others under 8 C.F.R. § 204.5(h)(3)(iv) and authorship of scholarly articles under 8 C.F.R. § 204.5(h)(3)(vi).

In his initial appellate submission, the Petitioner maintained that he "provided sufficient evidence" to meet three additional criteria: published material under 8 C.F.R. § 204.5(h)(3)(iii), original contributions under § 204.5(h)(3)(v), and leading or critical role under § 204.5(h)(3)(viii).[2] In

[2] While the Petitioner previously claimed eligibility for the criteria pertaining to awards under 8 C.F.R. § 204.5(h)(3)(i), membership under 8 C.F.R. § 204.5(h)(3)(ii), and high salary under 8 C.F.R. § 204.5(h)(3)(ix), he does not continue to do so on appeal, nor does the record support a finding that he meets them. Accordingly, we will not

addition, he indicated his intent to submit a brief and additional evidence. Subsequently, the Petitioner has provided documentation without specifying how it relates to the claimed criteria. Regardless, we have reviewed all of the evidence in the record, including the documentation provided on appeal, and conclude it does not support a finding that the Petitioner satisfies the plain language requirements of at least three 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 initially submitted several articles about the fact that he has earned nine degrees in a span of 35 years. As noted by the Director, although the articles mentioned the Petitioner, they are not published material about him relating to his work in the field, but rather, they are about his educational history. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be "about" the petitioner relating to his work in the field for which classification is sought. An article that is not about the petitioner does 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).

In response to the Director's request for evidence (RFE) on this issue, the Petitioner stated that a video program on youko.com featured him, and he provided a link to a website. However, he did not provide a transcript or other evidence sufficient to support his claim that this material was about him, nor did the submitted evidence include the date and author of the material, as required. In addition, the record does not contain sufficient evidence showing that the program constitutes a qualifying publication (professional or major trade publication or other major media) per the requirements of the criterion.

In addition, the Petitioner submitted an article entitled, [redacted] by [redacted] published in the [redacted] He stated that the article "introduces [his] academic achievements." However, while it consists of a bio of the Petitioner and a summary of his work, he did not provide sufficient evidence that the journal is a professional or major trade publication or major media. A "Note" appears at the end of the translated article stating that the [redacted] is an "academic periodical" that "spreads via the Internet, with an annual circulation of 5000 copies." It is not clear, however, where this information came from, whether from the Petitioner or the publication, and the record does not contain probative evidence to verify these claims or establish the significance of the circulation figures.

---

further address these criteria in our decision.

The Petitioner also provided an article entitled, ' ' and claimed published it. However, the article was not accompanied by a full English language translation. *See* 8 C.F.R. § 103.2(b)(3). Further, the Petitioner stated that is the "only large comprehensive daily printed in simplified Chinese in the US," but the record does not provide corroborative evidence such as comparable circulation numbers to show that it constitutes major media. Accordingly, the Petitioner did not demonstrate that the article reflects published material about him in a professional or major trade publication or other major medium.

The record additionally contains the title and first page of an article published in but does not include the entire article. Further, the document is in another language and a translation was not included. Finally, the Petitioner submitted several articles from the publications and but the translator only provided the title in English and did not translate the entire article. Further, these documents did not include the author of the articles as required pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

On appeal, the Petitioner claims that his documentation reflects "mass media coverage." He also provides several additional articles that are similar with some variations, that he claims were posted on websites such as and However, the documentation does not include screenshots of the articles with the uniform resource locator (URL) as evidence of publication on these websites. Further, only one of these articles identify an author as required pursuant to the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

Further, with respect to the articles provided on appeal, we note that the majority of these articles appear to have been published in 2017, after the date the petition was filed, and therefore cannot demonstrate that he satisfied the plain language of this criterion at the time of filing. *See* 8 C.F.R. § 103.2(b)(1). In addition, all of these documents are in Chinese and, although the Petitioner submits English translations with a statement the document is an "accurate translation of the original document," the translator did not sign them. Any document in a foreign language must be accompanied by a full English language translation. *See* 8 C.F.R. § 103.2(b)(3). The translator shall certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit a properly certified English language translation of the articles, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims.

Finally, the Petitioner did not submit independent, objective evidence establishing that the publications provided on appeal constitute qualifying publications. While the Petitioner submits a few paragraphs generally explaining each website, the sources of the documents are not identified and it is not clear if they were prepared by the Petitioner or if it is information from the websites themselves.

For the reasons discussed above, the petitioner has not submitted evidence that meets the plain language requirements of 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 record reflects that the Petitioner acted as an editorial committee member of the [redacted] Therefore, the Director found that the Petitioner satisfied this criterion, and we agree with that determination.

> *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).

On appeal, the Petitioner submits four articles he authored for three different journals. In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

Here, the record does not sufficiently demonstrate that the Petitioner's articles or prescriptions have been considered of major significance in the field. Regarding the articles written by the Petitioner, he did not provide documentation of how often his articles are cited or other evidence sufficient to show how his work has affected the field. The Petitioner has not sufficiently identified the specific contributions he has made through his written work, nor has he demonstrated that his articles have been commensurate with contributions of major significance.

On appeal, the Petitioner also provides uncertified translations of recent articles that appear to reference his work, mentioned above in the published material criterion. Although these articles mention the number of papers the Petitioner has written and the number of prescriptions he has developed, they do not provide information on how the papers and prescriptions have been of major significance in the field, nor does the record contain other evidence sufficiently establishing such significance.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi).*

The record demonstrates that the Petitioner authored articles that were published in professional journals such as the [redacted] Therefore, the Director found that the Petitioner satisfied this criterion, and we agree with that determination.

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 Petitioner contends that he meets this criterion based on his position as the president for the [redacted] from May 1992 to June 2004. On appeal, a letter from the former deputy head of this institute confirms that the Petitioner was the "legal representative and head." Although the Petitioner established that he held a leading role in this organization, the documentation does not demonstrate that [redacted] has a distinguished reputation, as required. In response to the RFE, a letter from the President of the [redacted] attested that [redacted] has "high social reputation with remarkable achievements." The author listed achievements of the organization and noted that medical institutes with the word "union" in the name are "all well-known and have considerable high social reputation." However, the author does not identify the basis of his knowledge about [redacted] or its field. Without additional, corroborating evidence, we find this letter insufficient to show that [redacted] holds a distinguished reputation among research institutions. Accordingly, the Petitioner did not demonstrate that he meets this criterion.

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 advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought. For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of B-Z-*, ID# 745952 (AAO Feb. 7, 2018)