U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF I-A-

DATE: JUNE 14, 2018

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

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

The Petitioner, a taekwondo athlete, seeks classification as an individual of extraordinary ability in athletics. This first preference classification makes immigrant visa 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 Petitioner's Form I-140, Immigrant Petitioner Alien Worker, finding he did not satisfy the initial evidentiary criteria applicable to individuals of extraordinary ability, either a major, internationally recognized award or at least three of ten possible forms of documentation. We dismissed his subsequent appeal on the same basis.[1] The matter is now before us on a motion to reconsider and a motion to reopen. Upon review, we will deny the motions.

I. LAW

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 submits qualifying evidence under at least three criteria, we will then 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.[2]

---

[1] *See Matter of I-A-*, ID# 698645 (AAO Dec. 22, 2017).

[2] *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,

In addition, a motion to reopen is based on documentary evidence of *new facts*, and a motion to reconsider is based on an *incorrect application of law or policy*. The requirements of a motion to reopen are located at 8 C.F.R. § 103.5(a)(2), and the requirements of a motion to reconsider are located at 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

II. BACKGROUND

In dismissing the appeal, we determined that the Petitioner satisfied only one of the initial evidentiary criteria, awards under 8 C.F.R. § 204.5(h)(3)(i). In his motion to reconsider, he argues eligibility for the one-time achievement under 8 C.F.R. § 204.5(h)(3). In his motion to reopen, the Petitioner presents additional documentation regarding published material under 8 C.F.R. 204.5(h)(3)(iii) and judging under 8 C.F.R. § 204.5(h)(3)(iv).

III. ANALYSIS

A. Motion to Reconsider

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). The Petitioner argues that his "victories over the most elite athletes in the world – speak to his position at the very top of the world." In addition, the Petitioner contends that we improperly imposed a requirement that he submit evidence that international media covered the event, and that the event is familiar to the public at large, which cannot be found in statute or regulations.

The Petitioner provided evidence establishing that he received a gold medal at the 2016 and a bronze medal at the 2015 The regulation at 8 C.F.R. § 204.5(h)(3) requires the one-time achievement to be "a major, international[ly] recognized award." 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 provided by Congress, is reported in

---

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).

the top media internationally regardless of the nationality of the awardees, reflects a familiar name to the public at large, and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the field as one of the top awards.

Although we do not require the Petitioner to submit evidence of international media coverage or that the event is familiar to the public at large, those characteristics, as discussed above, are typically present in major, internationally recognized awards. On motion, the Petitioner does not reference any alternative evidence showing that his awards are viewed as one-time achievements. Nor does the Petitioner supplement the motion with a pertinent precedent or adopted decision, statutory or regulatory provision, or statement of U.S. Citizenship and Immigration Services or Department of Homeland Security, demonstrating that we incorrectly applied law or policy in our decision.

B. Motion to Reopen

Regarding the published material criterion, the Petitioner previously submitted a screenshot from news.tj, a transcript of a broadcast interview from and an article published in On motion, the Petitioner provides sufficient evidence establishing that news.tj and are major media in Tajikistan. However, the Petitioner does not include the author of the news.tj screenshot and the author and title for the transcript, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(iii). Furthermore, as it relates to the Petitioner previously submitted a screenshot from and a biographic page from the publication regarding its history. On motion, the Petitioner offers screenshots regarding top ten articles for 2017. The Petitioner, however, does not demonstrate that the screenshots show that is a professional or major trade publication or other major medium. Accordingly, the Petitioner has not established that he meets the published material criterion.

As it relates to judging, our previous decision found that the Petitioner's evidence of "refereeing" at four youth competitions in 2011 and 2012 did not sufficiently document his duties to demonstrate that he participated as a judge of the work of others in the same or allied field consistent with the regulation at 8 C.F.R. § 204.5(h)(3)(iv). In addition, the Petitioner did not show that he was qualified to referee in accordance with the requirements for umpires specified in the Bylaws to the Constitution.

On motion, the Petitioner offers documentation acknowledging his "professional level of refereeing" at four additional events, two prior to the filing of his petition and two after.[4] In addition, the Petitioner provides certificates showing the awarding of his three from 2009 to 2012, and an

[3] On motion, the Petitioner does not offer evidence or contest our determination regarding an article published in Accordingly, we consider this claim to be abandoned.

[4] The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1).

umpire certificate issued in March 2015 for "B" classification. Finally, the Petitioner presents the Umpire Rules."

According to the previously submitted bylaws, "[u]mpires who have a can only be a referee at the national tournaments."[5] The Petitioner's documentation offered on motion, however, indicates that he was a referee for international matches in Belarus, Kazakhstan, and Russia. In addition, his prior documentation shows him refereeing events in Kazakhstan and Russia. Moreover, while both the bylaws and umpire rules require individuals to be over 18 years old, the Petitioner's prior claims of refereeing in 2011 and 2012 occurred when he was under the age of 18.[6] In fact, the Petitioner obtained his umpire certificate in 2015 when he was still under the age of 18. The Petitioner did not demonstrate through documentary evidence how he was able to obtain an umpire certificate and referee international matches when he was not authorized by bylaws and umpire rules. The Petitioner did not resolve this inconsistency in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Notwithstanding the above, the Petitioner did not establish that his experience as a referee is tantamount to a "judge of the work of others." According to the umpire rules, there are varying degrees of responsibilities and positions of umpires and referees. For instance, "[t]he Jury President is the only official authorized to disqualify a competitor" and "is the supervisor of the match and the Referee." Moreover, "[t]he Jury Member shall supervise the match and the referees . . . and help the Jury President in checking the Judging Forms." Furthermore, "[t]he Center Referee is allowed to have authority to decide the winner by raising the red flag or blue flag when a draw occurs in the 'golden point' round." In addition, "[t]he Corner Referee shall register on the Sparring judging form for point(s), warning(s) and reduction point(s) of the competitors." Here, the Petitioner's documentation acknowledges his participation as a referee at events. However, the documentation does not establish what role he engaged in with each match and whether his participation resulted as a judge of the work of others consistent with the regulation at 8 C.F.R. § 204.5(h)(3)(iv), as opposed to merely enforcing the rules of fair play, sportsmanship, and etc. Accordingly, the Petitioner did not demonstrate the he meets the judging criterion.

We further note that the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r. 1994). Here, the Petitioner has not shown that his recent awards are indicative of the required sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. Nor has he provided documentation demonstrating that his level of press coverage shows a "career of

[5] "A" classification is reserved for international umpires, and "[t]he can be applied for by the 4th and above holders who are over 25 years old and have participated in the endorsed by

[6] The Petitioner's date of birth is 1996.

acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). Moreover, the record does not otherwise demonstrate that the Petitioner's referee experience has garnered national or international acclaim in the field placing him in the small percentage at the very top of taekwondo. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. 204.5(h)(2).

IV. CONCLUSION

The Petitioner's evidence on motion does not demonstrating his eligibility for the benefit sought, nor has he established that our previous decision was incorrect.

ORDER: The motion to reconsider is denied.

FURTHER ORDER: The motion to reopen is denied.

Cite as *Matter of I-A-*, ID# 1382630 (AAO June 14, 2018)