U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-P-S-M-

DATE: MAR. 19, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, who works in real estate reclamation, seeks classification as an individual of extraordinary ability. *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 although the Petitioner had satisfied three of the initial evidentiary criteria, he did not show sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor. In addition, the Director determined that the Petitioner did not establish that he intends to continue to work in the United States in his area of expertise and his entry will substantially benefit prospectively the United States.

On appeal, the Petitioner submits additional evidence and a brief, arguing that he has shown extraordinary ability in the field.

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

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

(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 served as the project manager for the renovation of the [redacted] in [redacted] New York. Because he 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 three criteria, but determined that he did not show sustained national or international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the plain language requirements for any of the 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 Director concluded that the Petitioner met this criterion. The record, however, does not indicate that the Petitioner received nationally or internationally recognized prizes or awards for excellence.

Instead, the Petitioner presented evidence showing that and another business received preservation awards relating to a project in which he was involved. For instance, the Petitioner submitted evidence reflecting that received the following awards: 1) In addition, the company that designed the project, received the 2014 and the 2015 As the Petitioner was not a recipient of these awards, he did not establish his "receipt" of lesser nationally or internationally recognized prizes or awards for excellence consistent with this regulatory criterion.[1] Accordingly, we withdraw the Director's finding, and conclude the Petitioner did not demonstrate that he satisfied this criterion.

> *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 Director found that the Petitioner met this criterion. Upon review, the record does not show published material about him relating to his work in professional or major trade publications or other major media. Specifically, the Petitioner presented press coverage regarding rather than about him. Although the Petitioner is quoted or mentioned in the material as the project manager, the media coverage is about For example, the Petitioner submitted screenshots from and which discuss the renovation of the but are not about him.[2] Articles that are not about a petitioner do 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 regarding a show are not about the actor). Here, articles or screenshots that mention the Petitioner as the project manager or quote him in support of the articles' subjects without a discussion regarding him and his work in the field do not constitute published material about him.

The record does indicate that the Petitioner provided two screenshots from and reflecting material about him. Both screenshots indicate an interview of the Petitioner discussing his history with the project. However, the screenshot from archleague.org does not contain the required date and author. In addition, the Petitioner did not demonstrate that the screenshots are professional or major trade publications or other major media.

Specifically, although the Petitioner offered screenshots from regarding the 2015/2016 annual report for the , this documentation

[1] *See* USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 6 (Dec. 22, 2010), http://www.uscis.gov/laws/policy-memoranda.

[2] While we discuss a sampling of articles, we have reviewed and considered each one.

relates to and does not show that its website is a professional or major trade publication or other major medium. Moreover, the Petitioner submitted screenshots from indicating that is a "community paper" and distributes "10,000 copies to over 500 locations throughout and and -area hotels." While the screenshots relate to print edition rather than the distribution statistics of this community paper is not indicative of a professional or major trade publication or other major medium. Accordingly, we withdraw the Director's determination because the Petitioner did not demonstrate that he satisfies 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 Director concluded that the Petitioner did not meet this criterion. In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish not only that 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. The Petitioner argues that that his work in the restoration of satisfies this criterion.

On appeal, the Petitioner submits a book entitled, which contains two paragraphs discussing While the book indicates that " is also helping anchor similar revitalization efforts around the neighborhood," the book does not show that the project is considered a contribution of major significance to the field at large. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole). The Petitioner, for example, did not establish that his contributions to the project have greatly impacted the real estate reclamation field.

The record contains reference letters that praise the restoration project but do not identify what contributions he made to field and how they are considered of major significance.[3] For example, former executive vice president of the stated that in an effort to reuse the former refinery, he sought "inspiration" from the project. however, did not specify the Petitioner's contributions and how the greater field considers them to be of major significance. In addition, although founder of claimed that "had a fundamental role in shaping architectural designs and concepts throughout the entire United States," he did not provide any examples of other reclamation projects in the United States that were based on or show that the architectural designs and concepts used in the project were original contributions of the Petitioner.[4] Further, founder and managing partner of

[3] We discuss only a sampling of these letters, but have reviewed and considered each one.

[4] As indicated under the awards criterion, the record shows that provided the architectural

opined that the Petitioner's "work with the building is remarkable." did not indicate what the Petitioner contributed to the project, nor did he explain why he believed the Petitioner's work is remarkable and how it is considered to be of major significance to the field.

The letters considered above primarily contain attestations of the Petitioner's status in the field without providing specific examples of how his contributions rise to a level consistent with major significance. Letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field. *Kazarian*, 580 F.3d at 1036, *aff'd in part* 596 F.3d at 1115, 1122. Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). For these reasons, the Petitioner did not demonstrate his eligibility for this 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 found that the Petitioner met this criterion. The Petitioner claimed that he "has been employed as the Project Manager and General Manager with both and related entities owned by the holding company, [redacted]." He further explained that is the general contracting company responsible for reclamation, restoration, and renovation of and is responsible for operating the newly restored as an art gallery and event space. While the record indicates that he performed in a critical role for the project, he did not document that the organizations or establishments involved, , have a distinguished reputation. For example, while the Petitioner provided articles and letters, considered above, confirming that the project has attracted attention in the field, this evidence does not discuss the reputation of [redacted]. For these reasons, we withdraw the Director's finding, and the Petitioner did not establish that he satisfies this criterion.

Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk or video sales. 8 C.F.R. § 204.5(h)(3)(x).

The Director determined that the Petitioner did not meet this criterion because he is not a performing artist. The Petitioner does not contest the Director's decision or offer additional evidence relating to this criterion. We agree with the Director's finding, and the Petitioner did not establish that he fulfills 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

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designs for the project.

final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20.[5] 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.

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). In the case here, the submitted evidence largely relates to a single real estate reclamation project. The Petitioner has not shown that his work on this project is indicative of the required sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. Further, the Petitioner has not provided documentation demonstrating his work prior to and after the project shows a "career of 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 has garnered national or international acclaim in the field. *See* section 203(b)(1)(A) of the Act.

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 C-P-S-M-*, ID# 1082111 (AAO Mar. 19, 2018)

[5] In addition, as the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we do not need to determine whether he intends to continue to work in the United States in his area of expertise and his entry will substantially benefit prospectively the United States. *See* section 203(b)(1)(A)(ii) and (iii) of the Act and 8 C.F.R. § 204.5(h)(5).