U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 4699219

Date: DEC. 18, 2019

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a general management executive, seeks classification as an alien 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 Texas Service Center denied the petition, concluding that the Petitioner satisfied only one of the initial evidentiary criteria, of which she must meet at least three.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1) of the Act makes visas available to 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 a multi-part analysis. First, a petitioner can demonstrate 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). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying 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).

II. ANALYSIS

The Petitioner indicates employment with [redacted] as a partner in Latin America and as [redacted] for [redacted], a division of [redacted].[1] 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 alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, the Director determined that the Petitioner fulfilled one initial evidentiary criterion, leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner argues that she meets five additional criteria. After reviewing all of the evidence in the record, we conclude that the record does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

> *Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.* 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner did not claim eligibility for this criterion before the Director. However, on appeal, she argues that she meets this criterion based on her membership with the International Project Management Association (IPMA) and the Central Florida Brazilian American Chamber of Commerce (CFBACC). In order to satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.[2]

As it relates to IPMA, the Petitioner presented a letter from [redacted] of IPMA Brazil, who claimed that IPMA's board of directors "shall be composed of individuals who have demonstrated significant highly [sic] achievements in business, exceptional education, the professions and/or public service." In addition, [redacted] indicated that board members should have

[1] *See* the Petitioner's résumé submitted at the initial filing of the petition.

[2] *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), https://www.uscis.gov/policymanual/HTML/PolicyManual.html (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual's distinguished achievements in original research).

extensive and relevant leadership experience, at least an undergraduate degree, international experience, corporate governance, and the highest moral and ethical character. Moreover, [redacted] stated that he "strongly nominated her because of her daily involvement that goes above and beyond the call of duty."

In his letter, however, [redacted] did not elaborate or define IPMA's meaning of "significant[ly] high[] achievements" to show that it meets the regulatory requirement of "outstanding achievements." Moreover, although [redacted] referenced IPMA's by-laws, the Petitioner did not present them to support the letter's claims. Moreover, while the Petitioner submits evidence regarding the background and mission of IPMA, the documentation does not indicate the requirements for IPMA board membership.[3] Here, the Petitioner did not establish that IPMA board membership requires outstanding achievements as required by this regulatory criterion. Moreover, the Petitioner did not show that the other requirements of education, work experience, and character traits represent outstanding accomplishments.[4] Furthermore, the Petitioner did not demonstrate that recognized national or international experts judge IPMA board membership. In fact, according to [redacted] the IPMA board is "nominated and elected." Thus, recognized national or international experts do not judge IPMA board membership rather than based on an election system.

Regarding CFBACC, she provides a letter from [redacted] of CFBACC, who stated that the Petitioner has been "a member of this Chamber of Commerce since 11/1/2018 and on 11/28/2018 was elected as a new Board members [sic] to serve CFBACC in 2019." However, the Petitioner filed the initial petition in June 2018. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of filing and continuing through adjudication. *See* 8 C.F.R. § 103.2(b)(1). Therefore, the Petitioner's membership with CFBACC will not be considered on appeal.

Notwithstanding the above, according to CFBACC's bylaws submitted by the Petitioner, "[i]ndividual membership shall be available to individuals expressing an interest in the Chamber." Hence, the Petitioner did not demonstrate that expressing an interest in CFBACC is tantamount to an outstanding achievements. Moreover, similar to IPMA, "[t]he Board of Directors of the Chamber shall be comprised of a total of thirteen (13) elected directors." Accordingly, CFBACC board membership is based on an election rather than outstanding achievements, as judged by recognized national or international experts.

For the reasons discussed above, the Petitioner did not show that she satisfies this criterion.

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[3] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7 (stating that the level of membership afforded to the alien must show in order to obtain that level of membership, the alien was judged by recognized national or international experts as having attained outstanding achievements in the field for which classification is sought).

[4] *Id.* at 7 (instructing that relevant factors that may lead a conclusion that the alien's memberships in the associations were not based on outstanding achievements in the field include, but are not limited to, instances where the alien's membership was based solely on a level of education or years of experience in a particular field).

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 specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)

Again, the Petitioner did not claim eligibility for this criterion before the Director. On appeal, she contends that she "assessed, evaluated and provided a judgment to companies in the form of reports regarding hundreds of high-level executive candidates upon request of large corporations." This regulatory criterion requires a petitioner to show that she has acted as a judge of the work of others in the same or an allied field of specialization.[5]

She submits a [redacted] Report" for three job candidates, an "Interview Binder" for a job description and candidates' reports, and a "Candidate Profile." However, the Petitioner has not sufficiently shown that she participated as a judge of the work of others consistent with this regulatory criterion. Rather, the evidence supplied by the Petitioner indicates that she prepared summaries based on a "methodology" and presented them to employers for them to decide whether the job vacancies should be filled by the candidates. Moreover, the Petitioner did not demonstrate her designation as a judge, nor did she establish that she actually judged the job candidates. Here, the Petitioner did not establish that her reports involved her participation as a judge of the work of others. Without further documentation, her evidence regarding the preparation and summarization of reports is insufficient to meet this criterion.

Accordingly, the Petitioner did not establish that she fulfills 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).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has she made original contributions but that they have been of major significance in the field.[6] For example, a petitioner may show that her 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 provides "a sample methodology" claiming that it "applied to a case study for the insurance industry." While the evidence reflects a presentation relating to expected talent trends in the insurance industry for the next five years, the Petitioner did not demonstrate how the presentation significantly impacted her field in a major way. Publications and presentations are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance." *See Kazarian v. USCIS,* 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115. Moreover, the Petitioner did not show the major significance of the "proposed methodology" discussed in the presentation. She did not, for example, establish the major influence of her methodology beyond the audience members.

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[5] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8.

[6] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9 (finding that although funded and published work may be "original," this fact alone is not sufficient to establish that the work is of major significance).

Moreover, the Petitioner argues that her previously submitted recommendation letters from [redacted] and [redacted] "clearly show that the program developed by [her] extraordinary ability has been implemented by some of the world's leading companies which span various industries such as Aerospace and Defense." Although the letters praise the Petitioner for her "systematic and strategic methodology" and discussed how she achieved success in recruiting talent to fill positions, they did not elaborate on how her methodology has been of major significance in the overall field beyond the companies that utilized her contracted services.[7] For instance, [redacted] broadly claimed that the Petitioner's "new method, directly affected the productivity of the business, at [sic] a whole, and reshaped industry standards and parameters." Here, [redacted] did not provide specific information explaining how the Petitioner's method impacted the greater field beyond an unnamed business. While the record contains other letters sufficiently showing that she performed in critical roles for specific organizations satisfying the regulation at C.F.R. § 204.5(h)(3)(viii), a separate and distinct criterion, they do not demonstrate that she has made original contributions of major significance in the larger field.

Furthermore, [redacted] speculates on the potential influence of the Petitioner's methodology and on the possibility of being majorly significant at some point in the future. For example, [redacted] asserted that her methodology "will give benefit to [the] United States . . . that could promote economic growth," [a]ssessing the potential benefit for the US industry, and its economy . . . I would endorse that US is expected to benefit from her, in the future," and she "will prove to be crucial in promoting revenue growth in organizations she assists." While [redacted] indicates promise in the Petitioner's work, he did not demonstrate how her methodology already qualifies as a contribution of major significance in the field, rather than prospective, potential impacts. The significant nature of her methodology to the greater field has yet to be determined, measured, or established.

Here, the Petitioner's letters do not contain specific, detailed information explaining the unusual influence or high impact her methodology has had on the overall field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.[8] On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.[9] 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 the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that she has made original contributions of major significance in the field.

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[7] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9; *see also 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).

[8] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

[9] *Id.* at 9. *See also Kazarian*, 580 F.3d at 1036, *aff'd in part*, 596 F.3d at 1115 (holding that 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).

> *Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.* 8 C.F.R. § 204.5(h)(3)(ix).

The Petitioner contends that she provided evidence "clearly showing [that she] has commanded a high salary when comparing to other Human Resource Specialists (Recruiters) in Brazil." In order to meet this criterion, a petitioner must demonstrate that the Beneficiary's salary or remuneration is high relative to the compensation paid to others working in the field.[10]

At the outset, the Petitioner offers and references her response to the Director's request for evidence. However, a review of that response reflects that she made numerous unsupported assertions. Specifically, the Petitioner claimed to quote various websites and other sources without providing the printed screenshots or source material. Likewise, the Petitioner's response contained self-compiled tables with figures and statistics; however, she did not submit evidence to corroborate her assertions. Because the Petitioner did not provide supporting evidence, her uncorroborated claims lack probative, evidentiary value.

Moreover, the Petitioner submits a letter from [redacted] at [redacted] who stated that the Petitioner "is a Partner, [redacted] and [redacted] at [redacted], a [redacted] [redacted] Company." In addition, [redacted] indicated that the Petitioner "joined the company in March 2011, and in December 2014 was promoted to [redacted]." Finally, [redacted] listed her gross payroll for each month in 2018 from [redacted] and [redacted] The Petitioner also presents "Consultant Bonus Calculation" from 2018 for [redacted] and [redacted]

Although the Petitioner argues that she commands a high salary compared to other "Human Resource Specialists (Recruiters)" based on her employment with [redacted] and [redacted], the record indicates that she does not earn a salary as a human resource specialist at either company. Instead, the Petitioner receives compensation as a "Partner" and "Head"; therefore, she must show that her earnings are high compared to other partners and heads. Although she likens her salary to those of human resource specialists, she did not show that she commands a high salary "in relation to others in the field," such as other partners or heads in similar companies in Brazil. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). Even if we were to compare her salary to other human resource specialists in Brazil, she did not submit supporting, independent evidence of those salaries. Furthermore, the Petitioner did not demonstrate that her bonuses were significantly high in relation to others.

Accordingly, the Petitioner did not show that she meets this criterion.

[10] *See* USCIS Policy Memorandum PM-602-0005.1, *supra*, at 11.

III. CONCLUSION

We find that although the Director determined that the Petitioner satisfied only one evidentiary criterion, she does not meet any additional criteria on appeal regarding to memberships, judging, contributions, and high salary. While she claims eligibility for one additional criterion on appeal, relating to published material at 8 C.F.R. § 204.5(h)(3)(iii), we need not reach this additional ground. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve this issue.[11] Accordingly, 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 acclaim and recognition 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. at 954. Here, the Petitioner has not shown that the significance of her work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and she is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). Although the Petitioner has shown experience, the record does not contain sufficient evidence establishing that she is among the upper echelon in her field.

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

[11] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).