



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF M-A-N-

DATE: JUNE 25, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an architect, 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 Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner has received a major, internationally recognized award or met the requirements of at least three of the ten evidentiary criteria.

On appeal, the Petitioner submits additional evidence and asserts that he meets three of the evidentiary criteria in addition to the one criterion that the Director concluded that he met.

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

I. LAW

Section 203(b) (1) (A) 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) (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 Director found that the Petitioner met one of the evidentiary criteria at 8 C.F.R. § 204.5(h) (3) (i)-(x), relating to lesser nationally or internationally recognized awards. On appeal, the Petitioner asserts that he also meets the evidentiary criteria relating to published material about him relating to his work, display of his work at artistic exhibitions or showcases, and his leading or critical role for organizations having a distinguished reputation. After reviewing all of the evidence in the record, we find that he does not meet the initial evidence requirements.

Documentation of the individual’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 record contains evidence which establishes that the Petitioner was a member of two teams which received awards for the restoration of historic buildings in his native Romania. Specifically, a letter and other supporting documents from the Petitioner’s employer at the time, the architectural firm [redacted] verify that he was one of nine team members who participated in the restoration of the church of [redacted] monastery. The letter from the project manager of the restoration project also indicates that the team was awarded first prize at the 2013 [redacted] Restoration Exhibition by the [redacted] for their work. This letter, supported by pages from [redacted] website and a copy of the association’s magazine, indicates that the [redacted] monastery project was 1 of 63 entrants judged by a panel of experts at the exhibition. In addition, other evidence establishes that the Petitioner was also a team member on a second historical restoration project completed by [redacted] which was

awarded third place in the 2016 edition of [redacted] exhibition, this time as one of 29 projects entered.

The evidence described above demonstrates the Petitioner's receipt of awards for excellence in his field as part of a team, but it does not sufficiently establish the national or international recognition of these awards. Notably, all of the evidence concerning the awards originates from [redacted] and its members, and there is no evidence of recognition of them, such as widespread media attention, in the broader professional community or the general public at the national or international level. We therefore disagree with the Director and find that the evidence is insufficient to meet this criterion.

Published material about the individual 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 asserts on appeal that the materials referred to above on the [redacted] website and in the 2014 edition of [redacted] magazine show that he meets this criterion. There are several elements which must be established under this criterion in order for evidence to qualify. First, the material must be about the foreign national. The article in the magazine is about the 2013 [redacted] Exhibition, as it covers the date and location, the number of projects exhibited, and the names of the judges on the awards panel. Even when describing the full list of awards presented, the article does not mention the winning team's individual members, but only the company name. Therefore, although this publication appears to be a professional publication, thereby meeting the second requirement under this criterion, the material is not about the Petitioner and his work.

The same can be said regarding the website materials about the 2013 and 2016 [redacted] Exhibitions. They include much of the same information as the magazine article, and the section regarding the 2016 exhibition also does not name individual members of the prize-winning teams. Accordingly, we find that the evidence does not establish that this criterion has been met.

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)

In support of its claim under this criterion, the Petitioner submitted a document titled "Ranking List of Admitted Candidates" from the University of [redacted] in [redacted] Romania. This list shows the Petitioner's name at the top with the highest score for the September 2009 session. In addition, a page from the university's website is submitted, showing two drawings under a section titled "Retrospective Admission 2009" for the Faculty of Architecture, Conservation and Restoration of Architecture specialization. We must first note that neither the website nor the drawings themselves identify the artist who created the drawings, nor do they include any indication that the drawings are the work of the student with the highest admission grade. Although a letter from a former classmate of the Petitioner includes a link to the website and states that the drawings are the Petitioner's, the classmate does not explain how he became aware of this information. We note that he states that he has known the Petitioner since 2013, four years after the Petitioner submitted the

drawings as part of his application. The evidence is therefore insufficient to establish that the work displayed on the website is the Petitioner's.

Also, the regulation requires that the foreign national's work be displayed at an artistic exhibition or showcase. While this webpage contains additional drawings, presumably from other students who were admitted to the university's school of architecture, it also contains tabs referring to information about the university, including faculty, admissions, and other departments. This evidence does not demonstrate that the website for the University of [redacted] is an artistic exhibition or showcase. Therefore, the Petitioner has not established that he meets this criterion.

Evidence that the individual 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 concluded in her decision that although letters from the Petitioner's employers, professors, and colleagues showed that he was important to his employers, they did not establish that he played a leading or critical role. On appeal, the Petitioner asserts that the authors of the letters are "experts [sic] architects and university professors that represent the highest authority in the field." However, while the stature of the letter writers might have an impact on the overall reputation of the organization that employs them, it is not relevant to the issue of the Petitioner's role for those organizations. The writers praise the Petitioner's talent and skills, and predict a successful career for him, but none suggest that he has played a leading or critical role for his employers or the university he attended.

In addition, although the evidence regarding the awards received by [redacted] at the [redacted] exhibitions is sufficient to establish its distinguished reputation, the evidence regarding the [redacted] did not demonstrate that that organization meets this requirement. Accordingly, the evidence is insufficient to establish that the Petitioner meets this criterion.

Upon review of all of the evidence of record, we find that the Petitioner has not met the initial requirements of at least three of the evidentiary criteria.

III. CONCLUSION

The evidence does not establish that the Petitioner received a major, internationally recognized award or meets three of the ten evidentiary criteria. As a result, we need not provide the type of final merits analysis determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in its entirety, and conclude that it does not support a finding that the Petitioner has established the level of acclaim and standing in his field required for the classification sought. For these reasons, the Petitioner has not shown that he qualifies for classification 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. In visa petition proceedings, it is the petitioner's burden to establish

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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). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of M-A-N-*, ID# 3617566 (AAO June 25, 2019)