U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-M-A-S-

DATE: MAY 8, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a soccer coach, seeks classification as an individual of extraordinary ability in the athletics. *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 Petitioner satisfied only the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). In a subsequent decision on the Petitioner's motions to reconsider and reopen the matter, the Director determined that he also met the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii). The petition remained denied, however, because the Petitioner did not satisfy the initial evidence requirements of meeting at least three of the ten regulatory criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x).

On appeal, the Petitioner contends that he meets two additional regulatory criteria and has established his eligibility for the classification.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to certain immigrants 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 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 the petitioner does not submit this evidence, then he or she must provide documentation that meets at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as qualifying awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the submitted material in a final merits determination and assess whether the record, as a whole, 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, 1119-20 (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, 1343 (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 began coaching soccer in 2005 when he retired as a player for teams in the [redacted] soccer league. According to transfermarkt.com, in 2016, he was 48 years old and his success rate as a coach was: "69.2% wins, 7.7% draw, [and] 23.1% losses." The document reveals that he was a player between 1986 and 2005, and then worked as an assistant coach or interim coach for various teams between 2005 and 2014. According to a letter from [redacted] a professional soccer team in the [redacted] the Petitioner was its coach between 2009 and 2014.

The record does not establish, and the Petitioner has not alleged, that he has received a major, internationally recognized award. 8 C.F.R. § 204.5(h)(3). He, therefore, must submit evidence satisfying at least three of the ten regulatory criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the initial evidence requirements. Upon a review of the documents, we conclude that he has not demonstrated, by a preponderance of the evidence, that he satisfies at least three of the following criteria he claims to meet.[1]

[1] If a petitioner submits relevant, probative, and credible evidence that leads U.S. Citizenship and Immigration Services (USCIS) to believe that the claim is "more likely than not" or "probably true," the petitioner has satisfied the "preponderance of the evidence" standard of proof. *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* 4 (Dec. 22, 2010), http://www.uscis.gov/laws/policy-memoranda.

> *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 Petitioner initially claimed that he met this criterion based on his experience playing for the team [redacted] in the 1980s and early 1990s. In her request for evidence and denial of the petition, the Director concluded that the record was insufficient to show that the Petitioner satisfied this criterion. The record supports this conclusion. On appeal, the Petitioner has not challenged the Director's determination or demonstrated that he meets this criterion.

> *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).

On appeal, the Petitioner maintains that he satisfies this criterion because of his involvement in the [redacted] league as a player and a coach, his participation in the [redacted] team, and his "A" level coaching license, which was issued by the Union of European Football Associations (UEFA). The record includes an undated letter from [redacted], the former head coach of the United States [redacted] Team and the Petitioner's former teammate, indicating that the Petitioner "played nearly 400 games as a professional in [redacted] leagues in Germany, including 214 games in the [redacted], one of the most prestigious soccer leagues in the world." [redacted] also states that the Petitioner "represent[ed] Germany at the [redacted]" According to [redacted], a coach for a number of [redacted] teams, the Petitioner was "a highly successful player in the [redacted], especially for [redacted] where he played for eight years, made 157 appearances, and played a critical role in helping the team win the [redacted] championship in 1992."

In addition, the Petitioner has submitted a letter from [redacted] the general manager and board representative of the team [redacted] indicating that the Petitioner made over 150 appearances as a player for the team [redacted] and over 200 appearances as a player for the team [redacted] [redacted] provides that the Petitioner has coached [redacted] teams, including [redacted][2] [redacted] a soccer player on the team [redacted] similarly states that the Petitioner has served as an assistant coach for a number of [redacted] teams.

According to a 2007 article "[redacted]" the [redacted] was established in 1963 and had 48 teams and 4,116 players between its establishment and 2003. The article states that "only one [soccer player's] career out of twelve lasts for 10 years." In addition, websites givemesport.com and totalsportek.com indicate that the [redacted] is one of the top ranking soccer leagues in the world.

The record is insufficient to demonstrate that the Petitioner meets this criterion. While he has shown that he was a soccer player, then became a coach for teams in the [redacted] he has not established that his professional experiences in a soccer league, even if it is one of the best in the world, qualifies as membership in an association. He has not shown that a soccer league constitutes

[2] [redacted] reserved team.

an association or that involvement in the league constitutes membership. Similarly, he has not demonstrated that his membership on a youth team satisfies this criterion. The record lacks sufficient documents concerning the process under which he became a player or coach in the [redacted] league or a member of the [redacted]. In addition, he has not shown that the league or youth team "require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields."

On appeal, the Petitioner cites our non-precedent decisions in support of his argument that he meets this criterion based on his membership on the [redacted] youth team. Non-precedent decisions do not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case, and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. In addition, the non-precedent decisions that the Petitioner references do not address an individual's membership on a youth team. For example, the petitioner in *Matter of K-S-Y-*, ID# 14269, 2016 WL 1669957 (AAO Mar. 9, 2016), demonstrated that he was "on the national judo team," which "is effectively the most difficult association membership for a judo athlete to obtain, particularly in Korea, which has the third-most Olympic medals in judo of any nation." The Petitioner in this case, however, was on a youth team that does not accept established athletes who are over a certain age. The non-precedent cases thus do not demonstrate that the Petitioner meets this criterion.

Furthermore, although the Petitioner has submitted evidence showing that he has earned an UEFA "A" level coaching license, he has not shown that he satisfies this criterion. According to [redacted] the Petitioner has earned his UEFA "A" coaching license, which, purportedly, "is only awarded to the top coaches in Europe, and is a process which takes years to accomplish." However, this statement is inconsistent with multiple other documents in the record. A 2016 article "[redacted]" states that "Germany charges [an applicant] less than $600 to become a UEFA A license holder." The 2015 UEFA Coaching Convention document indicates that a candidate can be admitted for "UEFA A diploma courses," if he or she has "a valid UEFA B licen[s]e"; and "at least one year's coaching experience as a UEFA B licen[s]e holder." It explains that "[a] UEFA coaching licen[s]e gives its holder the right to be employed to train a representative team of a UEFA member association or a specific team of a football club affiliated to a UEFA member association." A printout from ThePFA.com provides that there are five coaching levels: Level 1 to Level 5, and that Level 4 coaches hold UEFA A License, and can "work as a manager/coach in the professional game" and "[m]ost candidates complete [the process of obtaining the license] within 2 years."

Upon a review of the relevant documents, we conclude that the Petitioner has not shown that his professional license, which enables him to hold certain employment, qualifies as membership in an association, as required under the criterion. The record indicates that obtaining the "A" level coaching license requires him to go through a certain educational program and have a certain level of professional experience. The Petitioner has not established that to qualify for the license, a candidate must have "outstanding achievements." *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, 7 (noting that membership that is based "[s]olely on a level of education or years of experience in a particular field" is not sufficient to meet this criterion). The evidence does not confirm that UEFA, the license issuing entity, "require[s] outstanding achievements of [its] members, as judged by recognized national or international experts in their disciplines or fields." Based on these reasons, the

Petitioner has not shown that his involvement in the [redacted] league, membership in [redacted] youth team, or his coaching license from the UEFA satisfies 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 concluded that the Petitioner met this criterion. The record supports this conclusion. For example, the Petitioner has offered a 2014 *Suddeutsche Zeitung* article entitled [redacted] that discusses his competitive successes as a soccer player and his desire to coach soccer in the United States. He has also presented evidence, including an articles from the *BBC News* and *New York Times*, confirming that *Suddeutsche Zeitung* is one of the largest daily newspapers in German, thus constitutes major media. Accordingly, the Petitioner has established 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).

As relating to this criterion, the Petitioner argues that the Director erred in requiring evidence confirming his contributions impacted or influenced the field, stating that "[b]y the nature of their profession, coaches generally do not product impacts 'beyond one's collaborators, employers, clients, or customers' given that they are hired to work directly with a specific team and its players" and that they "do not share their techniques or strategies with other professionals outside their teams." He maintains that he need not show that he has "innovat[ed] completely new techniques or strategies," and indicates that the reference letters from two soccer players and the head coach of the United States [redacted] team sufficiently show that he satisfies this criterion.

To satisfy this criterion, the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v). His argument that he need not demonstrate impact in the field is not supported by the plain language of the criterion. Major significance in the field may be shown through evidence that his original coaching or training methods have been widely accepted and implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, 8-9.

The record, including reference letters, is insufficient to demonstrate that the Petitioner has met this criterion. According to [redacted] a soccer player for [redacted] in Brazil, the Petitioner was the assistant coach when he played for the [redacted] between 2012 and 2013. [redacted] indicates that the Petitioner "displayed remarkable ability to devise effective strategies and also to motivate and instill a strong sense of team solidarity." He states that under the Petitioner's coaching, "[he] scored ten goals and made thirty-seven appearances for [redacted]" a team that "ranked 3rd in the [redacted] that season. [redacted], a soccer player who had been on the Brazilian [redacted] team between 2007 and 2009, provides that the Petitioner had coached him when he was playing for the team [redacted]

[redacted], noting that he "was always so passionate about the game and had an amazing way of drawing the very best out of each and every player." [redacted] says that "[t]hanks to [the Petitioner's] professional guidance, [he] made thirty-one appearances and scored six goals during the year (2012-2013) that [he] played under [the Petitioner]." The record includes letters from other players, such as [redacted].

In addition to reference letters from soccer players, the Petitioner has offered letters from soccer coaches, including one from [redacted] who indicates that "[he] and other professional coaches have often sought out [the Petitioner's] judgment" to "spot [those] hidden potential, undeveloped talent and coachable players." He confirms that the Petitioner "has shared his coaching and playing insights with the U.S. [redacted] Team." [redacted], the head coach of the United States men's [redacted] provides that the Petitioner "had a very distinguished reputation as a player in the [redacted] soccer association and served as an assistant coach for several German teams after his playing days were over." He states that the Petitioner had worked with the United States [redacted] and that the "players had a great day training under his tutelage and greatly valued his time and the growth they made in that training session."

The record, including documentation that the Petitioner has not specifically mentioned in his appellate brief, does not establish that he meets this criterion. While the evidence shows that he is an effective coach who works well with players on different teams, it does not confirm that what he does is either original, such that he is the first person or one of the first people to have utilized a particular coaching technique or method, or that his work qualifies as contributions of major significance in the field. *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, 8-9. For example, the record lacks documentation showing that other soccer coaches or experts have identified what he does as unique or original. He has also not shown that his coaching style or methods have been widely accepted or implemented by other coaches, or that they have otherwise influenced training methods in the field in a significant way.

This criterion requires documentation of contributions of major significance in the field as a whole. One way to demonstrate the requisite contributions could be through evidence that major publications have reported on the Petitioner's methods or noted that they have been widely adopted in the sport. The record, however, lacks such types of documentation. Evidence of impact on a limited number of individuals are insufficient to satisfy the criterion. *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 demonstrate her impact in the field as a whole); *Kazarian*, 596 F.3d at 1122 (finding "letters from physics professors attesting to [a petitioner's] contributions in the field" were insufficient to meet this criterion). The documents in the record do not confirm that the Petitioner's coaching style or training methods have significantly impacted or influenced, or otherwise constitute contributions of major significance in the field. Letters that offer general praises of the Petitioner and that repeat the regulatory language, but do not sufficiently explain how his contributions have already influenced the field significantly are insufficient to satisfy this criterion. *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, 9 (noting "[l]etters that lack specifics and simply use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion"). Based on these reasons, the Petitioner has not met 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 concluded that the Petitioner met this criterion. The record supports this conclusion. The record shows that the Petitioner has served as the assistant coach for the German [redacted] team [redacted] which, according to [redacted], "consistently ranked in the top 5 for the [redacted]" during his tenure. [redacted] for whom the Petitioner served as "[an] Assistant Coach at [redacted] (2010-2013)," states that due to the Petitioner's coach abilities, "the team placed consistently 2nd and 3rd [in] the [redacted] – whereas in the two previous years it had only placed 5th and 19th." [redacted] indicates that while he played for [redacted] between 2012 and 2013, the Petitioner was the assistant coach. He provides that during that time "the team ranked 3rd in the [redacted] which is proof of [the Petitioner's] extraordinary abilities to train, mentor and guide his players." In addition, the Petitioner has offered documentation relating to the team [redacted], including its standing, which sufficiently demonstrates its distinguished reputation. Accordingly, the Petitioner has satisfied a second 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, upon a review of the record in its entirety, we conclude that it does not support a finding that he has established the acclaim and recognition required for this classification.

The Petitioner seeks a highly restrictive visa classification, intended for individuals who are 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 the significance of his athletic and coaching accomplishments 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 he 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; 8 C.F.R. § 204.5(h)(2).

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 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 A-M-A-S-*, ID# 3031301 (AAO May 8, 2019)