U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF G-C-D-L-

DATE: SEPT. 3, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a computer systems engineer, seeks classification as an individual of extraordinary ability in the sciences. *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 the Petitioner had not satisfied the initial evidentiary requirements, either a one-time achievement or at least three of ten alternate criteria.

On appeal, the Petitioner argues that the Director "misinterpret[ed] the law and disregarded relevant facts."

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 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 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation.

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

In denying the petition, the Director found that the Petitioner met only the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). The record reflects that the Petitioner served as a judge for the "Computer and Innovation Competition" organized by the [redacted] of [redacted] Philippines. Accordingly, we agree with the Director that the Petitioner fulfilled the judging criterion.

The Petitioner maintains that she has a one-time achievement under 8 C.F.R. § 204.5(h)(3) and that she also satisfies six of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner has received a one-time achievement or fulfills the requirements of at least three criteria.

A. One-Time Achievement

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 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.

The Petitioner presented a "Hall of Fame Awardee" certificate from the "Provincial Director [redacted]" in recognition of her computer support to faculty and students. In addition, she submitted an "Award for Innovation in Computer System Technology, Management, Planning and Implementation" from [redacted]. The regulation at 8 C.F.R. § 204.5(h)(3) requires the one-time achievement to be "a major, international[ly] recognized award." The Petitioner did not present evidence, for example, demonstrating that her two awards are widely reported by international media, are recognized by the general public, or garner attention comparable to other major, globally recognized awards similar to the Nobel Prize. Accordingly, the Petitioner has not demonstrated that she meets the requirements of a one-time achievement.

B. Evidentiary 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).

In order to fulfill this criterion, the Petitioner must demonstrate her prizes or awards are nationally or internationally recognized for excellence in the field of endeavor.[1] Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field including, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.[2]

As evidence for this criterion, the Petitioner submitted a Certificate of Appreciation from [redacted] "for being an Outstanding Quality Engineer," a Certificate of Achievement from [redacted] for "Quality Control Accuracy," and two Certificates of Achievement from the [redacted] for completing a workshops on "Effective Problem-Solving Techniques" and "Software Engineering." In addition, she provided a Certificate of Excellence from [redacted] for her work involving "Computer and Media Ministry," a "Hall of Fame Awardee" certificate from the "Provincial Director, [redacted]," and an "Award for Innovation in Computer System Technology, Management, Planning and Implementation" from [redacted] The record, however, does not

[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), https://www.uscis.gov/policymanual/HTML/PolicyManual.html.

[2] *Id.*

include supporting evidence demonstrating that these awards are nationally or internationally recognized prizes or awards for excellence in the field. The Petitioner has not established therefore that she meets this regulatory 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).

The Petitioner asserts that she meets the membership criterion through obtaining "Cisco Career Certification" from [redacted] This certification represents the Petitioner's completion of computer network training rather than membership in an association. The Petitioner has not demonstrated that she acquired "membership" with [redacted] based on her outstanding achievements, as judged by recognized national or international experts. In addition, the Petitioner presented a certificate stating that she was "received into full membership of Calvary Church," but she has not shown that her membership in this organization required outstanding achievements in computer systems engineering, as judged by recognized national or international experts. Finally, the Petitioner submitted a letter and membership card indicating that she became a "Society Affiliate" of the Institute of Electrical and Electronics Engineers (IEEE) in 2019. This membership, however, post-dates the filing of the petition. Eligibility must be established at the time of filing. *See* 8 C.F.R. § 103.2(b)(1). Regardless, the Petitioner has not offered information or evidence demonstrating that her affiliate membership in the IEEE meets the requirements of this regulatory criterion. For these reasons, the Petitioner has not satisfied 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 evidence under this criterion, the Petitioner submitted three letters from her former employers. The Director considered this documentation, but found that it was not sufficient to demonstrate that the Petitioner's work constituted original contributions of major significance in the field. For the reasons discussed below, we agree with that determination.

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 contributions that were original 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 the field, or have otherwise risen to a level of major significance in the field.

The Petitioner contends that she provided letters from experts discussing her contributions in computer systems engineering. As discussed below, these letters do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to demonstrate the nature of specific "original contributions" that the Petitioner has made to the field that have been considered to be of major significance.

For example [redacted] chief financial officer of [redacted], an information technology (IT) service provider, stated that the Petitioner "helped us develop a software system as a Research

Assistant in Computer Science Department at our branch office. On that project, I was impressed by her initiative and her thirst for knowledge. She also showed strong analytical and problem solving skills." The record, however, does not include sufficient information or evidence demonstrating that the Petitioner's work on this software system has affected the field in a substantial way or otherwise constitutes a contribution of major significance in her field.

In addition, [redacted] general manager of [redacted], indicated that the Petitioner was "a great asset to our company and her contributions to our company is [*sic*] still deeply appreciated to this date. She led the product designs, quality assurance, and pilot runs of RFID [radio-frequency identification] contactless devices. She also managed our computer network." The Petitioner, however, has not offered sufficient evidence showing that her work has had a meaningful impact to the overall field beyond [redacted] The language of this regulatory criterion requires that the Petitioner's original contributions be "of major significance in the field" rather than mainly affecting her employer. *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).

Furthermore, [redacted] senior human resources officer for [redacted] stated only that the Petitioner "was employed as a[n] Engineering Assistant in our company from 2 September 1997 to 23 December 1999" and "left us on her own accord." [redacted] does not identify the Petitioner's original contributions or explain how they are of major significance in the field of computer systems engineering.

Here, the letters from the Petitioner's employers do not reflect detailed information explaining how her original contributions are of major significance in the field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and her impact on subsequent work add value.[3] 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.[4] Without sufficient evidence demonstrating that her work constitutes original scientific contributions of major significance in the field, the Petitioner has not established that she meets this criterion.

> *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).

As evidence for this criterion, the Petitioner presented a certificate from [redacted] University Computer Engineering Society for participating in a "seminar on Computer Viruses." The language of this criterion, however, specifically requires display of the Petitioner's work at "*artistic* exhibitions or showcases" (emphasis added). Here, the evidence does not demonstrate that the work on display at this seminar was "artistic" in nature.[5] Accordingly, the Petitioner has not satisfied this criterion.

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

[4] *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).

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

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 Petitioner contends that she has performed in a leading or critical role for [redacted] and [redacted]. As evidence under this criterion, the Petitioner submitted Certificates of Achievement from [redacted] and letters of support from [redacted]. For example, a letter from [redacted] general manager and Head of the IT department for [redacted] stated: "[The Petitioner] worked as a Network Engineer. . . . She maintained our network systems without glitches and kept the network secured. . . . She always looked for ways to improve and innovate existing topologies to handle growing needs."

For a leading role, the evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.[6] Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. It is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical.[7]

Here, the Petitioner has not demonstrated that her positions as a quality assurance engineer for [redacted] a network engineer for [redacted] and a systems engineer for [redacted] reflect her leading or critical role for these organizations overall. As it relates to a leading role, she did not provide evidence to establish where her positions fit within the overall hierarchy of these organizations. Further, although the letters from [redacted] discuss the Petitioner's IT projects, they do not show that her positions were leading or critical for their companies overall. In addition, the aforementioned letters and Certificates of Achievement do not indicate that the Petitioner's roles were leading compared to [redacted]'s managers or department heads, nor did they indicate that her work was of significant importance for these organizations' success or standing so as to demonstrate a critical role.

Finally, the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires the organizations or establishments to have a distinguished reputation, which is marked by eminence, distinction, or excellence.[8] The Petitioner, however, did not offer evidence demonstrating that [redacted] have a distinguished reputation. For the above reasons, the Petitioner did not demonstrate that she fulfills this criterion.

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 presented an October 2000 tax statement from the Inland Revenue Authority of Singapore reflecting income of $19,762. The record, however, does not include wage statistics or

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

other evidence showing that the Petitioner's earnings were high relative to other computer systems engineers. Accordingly, the Petitioner has not established that she meets 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 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. 953, 954 (Assoc. Comm'r. 1994). Here, the Petitioner has not shown that the significance and recognition of her work are indicative of the required sustained national or international acclaim or that they are 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).

For the foregoing reasons, the Petitioner has not shown that she 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 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 G-C-D-L-*, ID# 4199525 (AAO Sept. 3, 2019)