



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

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

In Re: 5125191

Date: JAN. 28, 2020

Appeal of Texas Service Center Decision

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

The Petitioner, who identifies himself as a “social reformer,” 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 record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal.

In these proceedings, it is the Petitioner’s burden to establish eligibility for the requested benefit. 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)(A) of the Act makes immigrant visas available to aliens 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 they 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 states that he seeks to enter the United States as a “community and social service specialist.” The record emphasizes his volunteer work and charitable donations rather than his employment.

### A. Evidentiary Criteria

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). The Petitioner claims to have met three of those criteria:

- (i) Nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- (v) Original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field; and
- (viii) Performance in a leading or critical role for organizations or establishments that have a distinguished reputation.

The Director found that the Petitioner had not met any of the evidentiary criteria. On appeal, the Petitioner asserts that he also meets the three previously claimed criteria. After reviewing all of the evidence in the record, we agree with the Director that the Petitioner has not satisfied the requirements of any of the ten regulatory criteria.

Because the Petitioner has claimed the minimum number of criteria, he must meet each of the claimed criteria in order to qualify for the benefit sought. Here, we will focus on the first of them.

*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 submitted copies of three award certificates:

- “Volunter [sic] Award / Lions of The Year 2015-2016” from the Lions Club of [redacted] presented to the Petitioner “For Outstanding Extraordinary Dedication and Commitment”;
- “National Volunter [sic] Award” from Knowledge Net [redacted] presented to the Petitioner in 2017 in recognition of his “hard work & extra ordinary dedication”; and
- “Volunteer Service Award” from [redacted] Club, given in 2017 because the Petitioner “has proven to be an out standing extra- Ordinary Social worker [sic].”

We note that all three certificates contain typographical errors, and two of them show the Petitioner’s name handwritten into blank spaces. The Lions Club award is fully printed, but the wording of the certificate indicates that the award is from one local club rather than from the Lions Club at a national or international level.

In response to the Director’s request for evidence to establish the significance of the prizes, the Petitioner submitted letters from officials of the awarding entities. A Lions Club district governor stated that there are four Lions Club districts in [redacted] each of which recognizes one Lion of the Year. This information confirms that the Petitioner was recognized at the district level, rather than nationally or internationally.

The president of Knowledge Net [redacted] indicated that only one person receives the National Volunteer Award each year, and that the Petitioner received the third such award. The official also asserted that “Knowledge Net [redacted] is a highly reputed national organization,” but the Petitioner submitted no independent evidence to corroborate this assertion. The record lacks basic information about Knowledge Net [redacted] such as a mailing address; the only contact information provided is an email address and a telephone number. The information and evidence provided does not establish Knowledge Net [redacted]’s reputation outside of the organization itself, and it does not show that the National Volunteer Award is nationally or internationally recognized.

The chairman of the [redacted] Club called the organization “a reputed club” that “organizes [a] great yearly fair in order to raise fund[s],” but, as with Knowledge Net [redacted] the record does not establish that the club is a nationally significant organization or that its Volunteer Service Award is nationally or internationally recognized.

The Director found that the Petitioner did not establish national or international recognition of his awards. The Director also questioned the credibility of the award certificate from Knowledge Net [redacted] because the letter from that organization identified a different winner of the 2015-2016 Volunteer Award. The latter conclusion arose from a misreading of the letter and award certificate; the Petitioner received the 2016-2017 award. We find no substantive discrepancies in the award documentation, but the Director’s finding regarding the significance of the awards remains.

On appeal, the Petitioner does not address the key finding about the national or international recognition of his awards. The Petitioner observes that he had previously submitted printouts from the website of the Lions Clubs International. The Petitioner’s award, however, was not from the international organization, but from one local chapter. The Petitioner did not show that the Lion of the Year award from the [redacted] [redacted] chapter is nationally or internationally recognized.

The Petitioner has not established that he received nationally or internationally recognized prizes or awards for excellence in his field of endeavor.

Because the Petitioner cannot meet the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), detailed discussion of the two remaining criteria cannot change the outcome of this appeal. Therefore, we reserve the remaining issues.<sup>1</sup>

#### B. Continued Work in the Field

Beyond the Director's decision, review of the record reveals another significant issue. The Petitioner seeks what is, by statute, an employment-based immigrant classification for individuals employed in the sciences, arts, education, business, or athletics, who intend to continue work in the area of extraordinary ability. *See* sections 203(b)(1)(A)(i) and (ii) of the Act.

The Petitioner states that he plans to earn \$33,000 per year in the United States, but does not explain how he will do so. The Petitioner's claims and evidence center around donations he has made to charitable causes and his apparently unpaid volunteer work for various organizations. As praiseworthy as these endeavors may be, they do not amount to employment, nor do they constitute a field of endeavor in the sciences, arts, education, business, or athletics.

The record also sheds little light on the Petitioner's earlier employment abroad. Various exhibits in the record refer to the Petitioner as an "entrepreneur," but provide no other information about his business. The record does not show that the Petitioner's philanthropic work was directly related to his employment, rather than a separate endeavor that his salaried work enabled him to pursue. The Petitioner's intention to continue supporting charities, while engaged in unrelated employment, cannot serve as a basis for an employment-based immigration benefit.<sup>2</sup>

### 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.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> *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); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

<sup>2</sup> It also bears noting that the Petitioner's expected earnings of \$33,000 per year exceed the federal poverty guidelines for a family of five by less than \$3000, which would appear to limit his ability to donate to charities as he has done in the past.