U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 10319143

Date: JAN. 29, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, a professor of endodontics, 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 that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The Petitioner then filed a combined motion to reopen and reconsider. The Director reopened the proceeding, and concluded that the Petitioner had satisfied the initial evidentiary requirements, but did not establish that she has sustained national or international acclaim and is an individual in the small percentage at the very top of the field. 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 international 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 criteria 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).

II. ANALYSIS

The Petitioner has worked at [redacted] University in [redacted] Turkey, since 1989, becoming a full professor in 1998. The Petitioner has served on various committees, at [redacted] University and elsewhere. She intends to continue working as an educator and researcher in the United States.

After reviewing all of the evidence in the record, we agree with the Director that the Petitioner has met at least three criteria. Therefore, rather than discuss the specific requirements of the evidentiary criteria, we will evaluate the totality of the evidence in the context of the final merits determination below, and evaluate whether she has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim and that she is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation.

In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.[1] In this matter, we determine that the Petitioner has not shown her eligibility.

The Petitioner states that she "has been on international scientific committees, respected national/international journals, and prestigious committees where she judged the work of her

[1] *See also* 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), https://www.uscis.gov/legal-resources/policy-memoranda (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established, by a preponderance of the evidence, the required high level of expertise for the immigrant classification).

colleagues and made determinations regarding their respective career advancement." The record does not establish the significance of these committee positions. The Petitioner asserts, for instance, that she "has served on the [redacted] Committee," but the record indicates that this committee was convened for one specific conference in Turkey in 2007. Conference documentation names the members of six different committees, all of them apparently Turkish. In contrast, the named members of the [redacted]'s Executive Team represent a range of nationalities. The record, therefore, indicates the Petitioner's committee position was a local, *ad hoc* responsibility. The Petitioner does not establish how these committee members were selected, and therefore she has not shown that her selection reflects acclaim in the field.

The Petitioner contends that she received "a national honor" in the form of an assignment "as a permanent member of the committee which administered the Associate Professor Exams by the Council of Higher Education of the Republic of Turkey." The record does not explain the selection process or show that the field considers the assignment "a national honor." Furthermore, despite the use of the term "Permanent Member" in the English translations, a series of letters from the Council over several years describe the committees as "juries" for specific, named candidates for associate professorships. The letters show different committee/jury members for different candidates, indicating that there is no permanent, standing committee that continues to exist from one candidate to the next.

The Petitioner demonstrated her membership on the editorial boards of the *Italian Journal of Endodontics* and the *Turkish Clinics Journal of Endodontics*, and on a "[redacted] committee" for the Turkish journal. The record does not establish the duties of these positions, or how she was chosen for them. The record shows that the Italian journal's Editorial Board has 65 members, and a 2005 letter from the Turkish Dental Association describes the Turkish journal's [redacted] committee as "large." The Petitioner has not shown that these positions are hallmarks of qualifying national or international acclaim.

The Petitioner has written about 50 published scholarly articles since 1990. A printout from the Google Scholar search engine shows substantial citations for some of those articles, and the Director took that evidence into consideration. At the same time, when considering the question of *sustained* acclaim, we cannot ignore that the most recent article with a significant number of citations appeared in 2009. The submitted citation data does not establish that the Petitioner continues to produce influential research.

The [redacted] (shapes) of tooth [redacted] structures are classified under a system developed by [redacted] in 1984, and bearing his name. The Petitioner contends that one of her most significant contributions is being the first endodontist to identify new [redacted] not previously identified by [redacted] The Director took account of heavy citation of some early articles by the Petitioner describing these new [redacted] less than ten years after the introduction of the [redacted] classifications. But the Petitioner has not shown that these modifications to what was still a new classification system have contributed to sustained acclaim.

The Petitioner asserts that the Director did not give sufficient consideration to letters in the record. Most of these letters are from individuals who have worked with the Petitioner in some capacity, and who describe their collaborations with her. Such letters can provide valuable first-hand information

about the Petitioner's work in detail, but are not evidence of wider recognition. Even then, most of the letters describe the Petitioner's work only in vague and general terms. Three of the letters contain this exact sentence: "[The Petitioner's] major research projects focus on [redacted] and [redacted] of materials used in the field of endodontic treatments, which is reflected in her national and international publications." These similarities strongly suggest common authorship, or at least reliance on some kind of template. *See Mei Chai Ye v. U.S. Dep't. of Justice*, 489 F.3d 517, 519 (2d Cir. 2007) (concluding that an immigration judge may reasonably infer that when an asylum applicant submits strikingly similar affidavits, the applicant is the common source). One letter containing the shared passage is from a bank president who claims no credentials or expertise in dentistry, and who does not explain how he is in a position to evaluate the significance of the Petitioner's work.

The Petitioner has established a degree of success and influence in her field, but the record does not establish that her reputation and recognition have risen to the required level of sustained national or international acclaim.

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals at the top of their respective fields. U.S. Citizenship and Immigration Services 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 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 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 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.

ORDER: The appeal is dismissed.