U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 16159429

Date: MAY 5, 2022

Motion on Administrative Appeals Office Decision

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

The Petitioner, a barista, seeks classification as an individual 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 met the initial evidence requirements of this classification by demonstrating his receipt of a major, internationally recognized award or meeting at least three of the evidentiary criteria listed under 8 C.F.R. § 204.5(h)(3). We dismissed the Petitioner's appeal from that decision, as well as three subsequent motions to reopen. The matter is now before us on a fourth motion to reopen, in which the Petitioner submits evidence intended to meet two of the evidentiary criteria.

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 review, we will dismiss the motion.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals 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 the initial evidence requirements (through either a one-time achievement or meeting three lesser criteria), 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); *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. MOTION REQUIREMENTS

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The regulation at 8 C.F.R. § 103.5(a)(1)(i) limits our authority to reopen to instances where the Petitioner has shown "proper cause" for that action. Thus, to merit reopening, a petitioner must not only meet the formal filing requirements (such as submission of a properly completed Form I-290B, Notice of Appeal or Motion, with the correct fee), but also show proper cause for granting the motion.

III. ANALYSIS

The Petitioner has worked as a barista at his own café, and has also won prizes at various competitions. Because the Petitioner has not indicated or shown that he 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 initially claimed to have satisfied three of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the individual in professional or major media; and
- (iv), Participation as a judge of the work of others.

The Director concluded that the Petitioner met two of the criteria, relating to prizes and participation as a judge. On appeal, and in subsequent motions to reopen, the Petitioner has attempted to show that he also satisfies the criterion relating to published material. Also, in his third motion, the Petitioner made a new claim to have satisfied a fourth criterion, pertaining to a high salary or remuneration in relation to others in the field. We dismissed the Petitioner's third motion, citing two reasons.

First, the Petitioner claims that articles posted on a "coffee blog" called *Sprudge* are qualifying published material about him. We determined that, while the Petitioner had submitted subjective assessments indicating that "Sprudge is popular with its fellow coffee blogs," the Petitioner had not submitted circulation figures or other evidence to show that *Sprudge* "qualifies as a professional or major trade publication or other major media."

Second, we concluded that, while the Petitioner had documented the total income of a café that he operated in Iran from 2009 to 2014, he had not submitted documentary evidence to show that he "earned a high salary when compared to that of other baristas or café owners" as required by the regulation at 8 C.F.R. § 204.5(h)(3)(ix). The Petitioner does not contest this determination in his latest motion, and therefore we need not discuss this issue further.

In his latest motion, the Petitioner submits a printout from *Sprudge*, which provides information about the website and twice refers to the website as "the world's most popular coffee publication." As we observed in an earlier decision, promotional self-descriptions have negligible weight as evidence. *See Braga v. Poulos,* CV 06-5105 SJO FMOX, 2007 WL 9229758 (C.D. Cal. July 6, 2007), *aff'd* 317 F. App'x 680 (9th Cir. 2009) (concluding that we "need not, and indeed should not, rely on [a publisher's] self-serving assertion" about the significance of a given publication).

The new printout does not establish that *Sprudge* is a professional or major trade publication or other major media, and the Petitioner does not identify any error in our previous discussion of the publication. The new printout does not show proper cause to reopen the proceeding.

The Petitioner also attempts to meet a fifth, previously unclaimed evidentiary criterion at 8 C.F.R. § 204.5(h)(3)(ii), relating to 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.

The submitted evidence consists of a translated copy of a September 2020 letter, appointing the Petitioner to a two-year term as the education and research director of the [redacted] from September 2020 to September 2022, and translated background information about the [redacted], identifying the Petitioner as one of ten members of its board of directors.

The evidence does not establish that either the [redacted] or its board of directors is an association which requires outstanding achievements of its members, as judged by recognized national or international experts. Also, the Petitioner must establish eligibility as of the petition's filing date. *See* 8 C.F.R. § 103.2(b)(1). Here, the [redacted] appointment letter is dated September 2020, nearly four years after the Petitioner filed the petition in December 2016.

Because of the above deficiencies, the new evidence regarding the Petitioner's [redacted] membership does not show proper cause for reopening the proceeding.

The Petitioner has not overcome the grounds for dismissal of the prior motion, or established eligibility for the classification he seeks. We will therefore dismiss the motion to reopen.

ORDER: The motion to reopen is dismissed.