U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 23090720

Date: NOV. 10, 2022

Appeal of Texas Service Center Decision

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

The Petitioner seeks classification as a noncitizen of "extraordinary ability" in the field of speech and theatrical coaching. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). The requested, first-preference category makes immigrant visas available to noncitizens who demonstrate extraordinary ability based on "sustained national or international acclaim" and "extensive documentation" showing recognition of achievements in their fields. *Id.*

The Director of the Texas Service Center denied the self-petition. The Director concluded that, contrary to regulations, the Petitioner did not establish his satisfaction of three of ten preliminary, evidentiary criteria.

On appeal, the Petitioner bears the burden of establishing eligibility for the requested benefit by a preponderance of evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we find that the Petitioner meets the preliminary requirements but has not demonstrated sustained national or international acclaim as a speech and theatrical coach. We will therefore dismiss the appeal.[1]

I. LAW

To qualify as a noncitizen of extraordinary ability, a petitioner must:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek U.S. entry to continue work in their field of extraordinary ability; and
- Show that their entry would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

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[1] The Petitioner submits additional evidence on appeal. But the Director's request for evidence (RFE) sufficiently notified the Petitioner of proof required for both the preliminary criteria and a final merits determination and afforded him a reasonable opportunity to provide it. Thus, we decline to consider his evidence on appeal. *See Matter of Izaguirre*, 27 I&N Dec. 67, 71 (BIA 2017) (citing *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988)).

The term "extraordinary ability" means a degree of expertise identifying a noncitizen as "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Evidence of a noncitizen's extraordinary ability must include either receipt of "a major, international recognized award" or satisfaction of at least three of ten evidentiary requirements. 8 C.F.R. § 204.5(h)(3)(i)-(x). If a petitioner meets either of these standards, U.S. Citizenship and Immigration Services (USCIS) must then determine whether the record demonstrates sustained national or international acclaim placing the petitioner among the small percentage at the very top of their field. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010) (requiring a two-part analysis of extraordinary ability).

II. THE PRELIMINARY REQUIREMENTS

The Petitioner did not demonstrate his receipt of a major, international recognized award. *See* 8 C.F.R. § 204.5(h)(3). But the Director found that he met one of the ten alternate regulatory standards. The record demonstrates his participation as a judge of others' work in speech and theatrical coaching or an allied field. *See* 8 C.F.R. § 204.5(h)(3)(iv). Thus, to preliminarily qualify for the requested classification, the Petitioner must meet at least two other criteria under 8 C.F.R. § 204.5(h)(3).

Contrary to the Director's decision, we find that the Petitioner has established himself as the subject of published materials in the field under 8 C.F.R. § 204.5(h)(3)(iii). We also find that, under 8 C.F.R. § 204.5(h)(3)(viii), he has demonstrated his performance in a critical role for a distinguished organization.

A. Published Material about the Petitioner

To meet this standard, noncitizens must demonstrate that "professional or major trade publications or other major media" published material about them that "relat[ed] to [their] work in the field for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iii). Evidence must include "the title, date, and author of the material, and any necessary translation." *Id.*

The Petitioner is a native of Cuba and a resident of Colombia. He submitted copies of ten print or online articles mentioning him, including a 2011 article from a daily newspaper in Colombia's capital entitled [redacted]. The article discusses the Petitioner's coaching of the [redacted] explaining that, when the [redacted], the Petitioner taught him theatrical techniques to improve his public speaking ability. The Petitioner stated the article's initial publication in the newspaper's printed version.[2]

The Director found that, contrary to 8 C.F.R. § 204.5(h)(3)(iii), the Petitioner did not establish the newspaper as a "major med[ium]" in Colombia. The Director noted that the Petitioner's RFE response included proof that, in 2020, the newspaper's website generated more visits than any other "news and

[2] The Petitioner submitted a 2020 online printout of the 2011 article. But he indicated the article's initial publication in the newspaper's printed version. When describing articles issued online, the Petitioner stated that they were "published *on*" particular Internet addresses, or Uniform Resource Locators (URLs) (emphasis added). In contrast, when describing articles issued in print, he stated that they were "published *in*" certain publications. (emphasis added). He described the 2011 article as "published *in*" the newspaper. We therefore find that he indicated the article's publication in print. The record does not establish whether the newspaper also issued the article in 2011 on its website.

media" site in the country. But, because the Petitioner omitted evidence of the newspaper's circulation in 2011, the Director found insufficient proof that the paper constituted a major medium at the time of the article's publication.

While the Petitioner argues that 8 C.F.R. § 204.5(h)(3)(iii) does not expressly require evidence of a publication's circulation at the time of an article's issuance, we find that the Director reasonably requested information about the newspaper's earlier circulation. Evidence about publications "should establish that the[ir] circulation (online or in print) or viewership is high compared to other statistics." *See* 6 *USCIS Policy Manual* F(2) App'x. Thus, USCIS considers a medium as "major" based on its level of circulation or viewership, with "major" media constituting those with relatively "high" numbers of readers or viewers. *Id.* And, to determine how many readers saw an article, the Agency must logically focus on the medium's circulation near the time of the article's issuance. As the initial publication of the article about the Petitioner predates the newspaper's online viewership statistics by almost 10 years, the Director reasonably requested earlier circulation information.

The Director, however, overlooked evidence of the newspaper's earlier circulation. The Petitioner's RFE response included a printout from an online organization that tracks media in more than 30 countries worldwide. The printout cites a study that found the newspaper the most widely read print medium in Colombia in 2016, not long after the article's publication. Because of this earlier circulation information, we find that a preponderance of evidence establishes the newspaper as a major Colombian medium at the time of the article's publication. Thus, contrary to the Director's decision, the Petitioner has satisfied the standard at 8 C.F.R. § 204.5(h)(3)(iii).

B. Performance in a Leading or Critical Role

This criterion requires a noncitizen to demonstrate their performance "in a leading or critical role for organizations or establishments that have a distinguished reputation." 8 C.F.R. § 204.5(h)(3)(viii). USCIS first considers whether a petitioner's role in an organization, establishment, or its division or department was leading or critical. *See* 6 USCIS Policy Manual F(2) App'x. Evidence of a "leading" role must establish the noncitizen as a leader within an organization, establishment, or its division or department. *Id.* In contrast, evidence of a "critical" role must establish that a petitioner contributed in a significantly important way to the outcome of the activities of an organization, establishment, or its division or department. *Id.*

Next, to determine whether an organization, establishment, or its division or department has a "distinguished reputation," USCIS considers a variety of factors, including relative size and longevity. *Id.* The term "distinguished" means "marked by eminence, distinction, or excellence or befitting an eminent person." *Id.*

Although the Petitioner claims to meet this criterion on multiple bases, we find that he has demonstrated his critical role for a distinguished Colombian film festival. The record establishes him as a founder and academic director of the [redacted] festival, which has occurred annually since 2011. Evidence indicates that the festival generates significant favorable media attention in Latin America and presents films from around the world. The record therefore establishes the festival as "distinguished." *See* 8 C.F.R. § 204.5(h)(3)(viii).

The Director found the Petitioner to be "instrumental" in developing the film festival. But the Director concluded that the Petitioner did not demonstrate the festival's status as an "organization" or "establishment." *See* 8 C.F.R. § 204.5(h)(3)(viii). The term "organization" ordinarily means "an organized body of people with a particular purpose." Oxford Dictionary, https://www.google.com/search?q=organization. The film festival that the Petitioner founded meets this definition, as evidence identifies the festival as a group of people with the shared purpose of producing an annual film festival. Also, we previously found an Albanian film festival to constitute an organization. *See Krasniqi v. Dibbins*, 558 F.Supp.3d 168, 188-89 (D.N.J. 2021). Thus, we find that the Colombian film festival constitutes an organization under 8 C.F.R. § 204.5(h)(3)(viii).

In *Krasniqi*, we found that the noncitizen submitted insufficient evidence of her role in the Albanian film festival, such as her specific duties. 558 F.Supp.3d at 188-89. The Petitioner, however, provided a letter from the Colombian film festival's director, listing the Petitioner's annual festival activities as including: coordinating workshops and the attendance of film judges; lecturing; participating as a judge; and moderating forums. The duties indicate that the Petitioner has made significant contributions to the festival. *See* 6 USCIS Policy Manual F(2) App'x. A preponderance of evidence therefore demonstrates his performance in a critical role for a distinguished organization.

III. THE FINAL MERITS DETERMINATION

As required, the Petitioner has met at least three of ten preliminary evidentiary criteria for a noncitizen of extraordinary ability. *See* 8 C.F.R. § 204.5(h)(3). We will therefore evaluate the evidence in its entirety to determine whether it demonstrates sustained national or international acclaim and recognized achievements in the field of speech and theatrical coaching, marking the Petitioner as "one of that small percentage who have risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2).

Most of the published articles about the Petitioner in his designated field of speech and theatrical coaching date back to 2011, when he coached Colombia's [redacted] on public speaking. Those materials, however, are now more than 10 years old. The Petitioner must demonstrate that he has "sustained" acclaim in the field since then. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(3).

The Petitioner is a university professor of arts and communications sciences in Colombia. But he has demonstrated his concurrent work as a speech and theatrical coach of [redacted] since 2011. The record also includes evidence of more recent acclaim for his coaching work. For example, a senior partner for a communications consulting company where the Petitioner works stated the firm's incorporation of his method of speech coaching into the company's training programs. The partner also described the Petitioner as "a consultant of critical importance to the Company" whose public speaking evaluations are "highly valuable" to the firm and its clients. A business executive, who said she has worked with the Petitioner several times, recognized him "as one of the most relevant experts in oral communication, non-verbal language, and spokesperson training in Colombia and Latin America." And a former Colombian minister of education whom the Petitioner coached stated: "I have not found a consultant in oral communication and media training, more capable and effective than [the Petitioner]."

This recent praise for the Petitioner's coaching, however, does not sufficiently establish his sustentation of acclaim on a national or international basis. The letters also do not demonstrate how his expertise corresponds to a person that has risen to the very top of the field. The letter from the communications consulting company does not indicate whether the firm's training programs also incorporate methods from consultants other than the Petitioner, or that his methods have sustained nationwide or international acclaim. The business executive's description of the Petitioner as "as one of the most relevant experts in oral communication, non-verbal language, and spokesperson training in Colombia and Latin America" does not demonstrate that he has risen to the top of his field or has sustained national or international acclaim. And the former Colombian minister's description of the Petitioner as the most capable and effective communications consultant he has found means little without evidence of how many other consultants the former minister has found. Further, the letters are from people within the Petitioner's circle of professional acquaintances and do not reference evidence of "extensive documentation" of his accomplishments in the field. *See Mishra v. Richardson*, No. 1:20-cv-991, (LMB/TCB), 2021 WL 1566071, *3 (E.D. Va. Apr. 20, 2021) (finding letters from colleagues at a petitioner's employer insufficient to demonstrate national or international acclaim); *see also Bodhankar v. USCIS*, No. 119-cv-706-MAD/CFH, 2020 WL 777211, *1 (N.D. N.Y. Feb. 18, 2020) (finding evidence of a petitioner's development of his employer insufficient to establish national or international acclaim). In short, these letters do not establish the Petitioner as "one of that small percentage who have risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2).

We acknowledge the Petitioner's authorship of a 2019 book on speech and theatrical coaching entitled [redacted] But the record lacks sufficient evidence of acclaim for the work or its author. The Petitioner asserted that a 2020 online article entitled [redacted] "offers a critical review of his book, giving it high praise." But we do not find the article to be sufficiently laudatory. In total, the portion of the article about the Petitioner's work states:

> This book shows how to develop a speech that is shocking and seductive for the viewer, through effective communication theories focused on the construction of a public personality (figure). It contains multiple exercises with which to put this knowledge into practice in any circumstance and before any type of public.

The article is insufficiently praiseworthy to constitute sustained national or international acclaim.

Letters from officials at communications consulting companies where the Petitioner has worked also reference his 2019 book. They describe the book as "very practical," "well-supported," and "novel." One of the officials also stated that his company urges its clients to read the book. But the letters lack praise of the book sufficient to demonstrate the Petitioner's place among those in the small percentage at the very top of the speech and theatrical coaching field.

The record contains other published materials and testimonials about the Petitioner. But these materials largely praise his work in areas such as film, drama, and artistic research, which appear to be outside his designated field of expertise. The Petitioner has not demonstrated that his chosen field of speech and theatrical coaching encompasses these other areas of expertise. *See, e.g., Integrity Gymnastics & Pure Power Cheerleading, LLC v. USCIS*, 131 F.Supp.3d 721, 731 (S.D. Ohio 2015)

(upholding our finding that competitive gymnastics and gymnastics coaching are not the same area of expertise).

The record reflects the Petitioner's talents in many areas. But he designated speech and theatrical coaching as his field of endeavor and seeks classification in a highly restrictive immigrant visa category, intended for those at the very top of their fields. The Petitioner need not establish himself as the *most* qualified speech and theatrical coach. But, even considering the evidence in the aggregate, he has not demonstrated sustained national or international acclaim in the field or his ranking among the small percentage at the very top of the field. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2).

IV. CONCLUSION

The record establishes the Petitioner's satisfaction of the preliminary, regulatory requirements for a noncitizen of extraordinary ability. But he has not demonstrated sustained national or international acclaim in the designated field of speech and theatrical coaching. We will therefore affirm the Director's denial of the petition.

ORDER: The appeal is dismissed.