U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25051367

Date: FEB. 7, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner 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 Nebraska Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers (petition), concluding that the Petitioner did not establish he was the recipient of a major, internationally recognized award, nor did he demonstrate that he met at least three of the ten regulatory criteria. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we conclude that a remand is warranted in this case.

I. LAW

To qualify under this immigrant classification, the statute requires the filing party demonstrate:

- The foreign national enjoys extraordinary ability in the sciences, arts, education, business, or athletics;
- They seek to enter the country to continue working in the area of extraordinary ability; and
- The foreign national's entry into the United States will substantially benefit the country in the future.

Section 203(b)(1)(A)(i)–(iii) of the Act. 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 Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022).

II. ANALYSIS

A. Petitioner's Field

We begin correcting the record relating to the field in which the Petitioner has worked and proposes to continue such work in an area of claimed extraordinary ability. The Director indicated his field was aerospace engineering. However, the Petitioner notes his field is among those working in the area of composite materials. Although the Petitioner's Ph.D. certificate reflects his degree is in aerospace engineering, within the appeal he notes his studies specialized in both that area as well as composite structures. A review of the record reveals much of the Petitioner's work centers on composites and their use in various industries and we consider his field to be in that broader specialization.

B. 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). Before the Director, the Petitioner claimed he met four of the regulatory criteria. The Director decided that the Petitioner satisfied two of the criteria relating to judging and authorship of scholarly articles, but that he had not satisfied either criteria associated with prizes or awards, or contributions of major significance. On appeal, the Petitioner maintains that he meets both the evidentiary criteria the Director denied. After reviewing all the evidence in the record, we agree the Petitioner satisfied the criteria the Director granted, and we conclude he has satisfied at least one additional criterion.

> *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 provided the 2020 American Institute of Aeronautics and Astronautics (AIAA) [redacted] prize. The Director determined that the Petitioner did not satisfy the requirements of this criterion because he did not establish the award was nationally or internationally recognized for excellence in the field of endeavor.

We note the Director only discussed whether the Petitioner provided evidence the award was nationally or internationally recognized through major trade publications or other major media, but they did not evaluate whether the award might receive such recognition through its issuance by an international- or a national-level professional association. On appeal, the Petitioner claims the Director ignored some of the evidence it submitted under this criterion. It offered a letter from the cofounder of the award who noted this award is open to competition from those around the world and not simply those at a conference, he provided the judging criteria related to the award, and evidence relating to AIAA as a historied professional association and it is the world's largest technical society relating to the aerospace profession.

This criterion contains several evidentiary elements, all of which must be met to satisfy the regulation. According to the plain language of the regulation the evidence must establish: (1) the foreign national is the recipient of the prizes or the awards; (2) those accolades are nationally or internationally recognized; and (3) each prize or award is one for excellence in the field of endeavor. Here, the Petitioner has offered evidence that this award meets all of these requirements. Accordingly, we withdraw the Director's unfavorable determination as it relates to this criterion.

C. Petitioner's Signatures on Immigration Forms

The regulation at 8 C.F.R. § 103.2(a)(2) provides that "[u]nless otherwise specified in this chapter, an acceptable signature on a benefit request that is being filed with the U.S. Citizenship and Immigration Services (USCIS) is one that is either handwritten or, for benefit requests filed electronically as permitted by the instructions to the form, in electronic format." According to 8 C.F.R. § 103.2(a)(7)(ii)(A), USCIS will reject a request that does not bear a valid signature when it receives the request. USCIS policy reflects in instances where the agency has accepted a benefit request for adjudication and we subsequently discover a deficient signature, we will deny the benefit instead of rejecting it. *See generally* 1 *USCIS Policy Manual* B.2(A), https://www.uscis.gov/policymanual.

A person's signature on an immigration form establishes a strong presumption that the signing party knows its contents and has assented to them, absent evidence of fraud or other wrongful acts by another person. *Matter of Valdez*, 27 I&N Dec. 496, 499 (BIA 2018) (citing *Thompson v. Lynch*, 788 F.3d 638, 647 (6th Cir. 2015); *Bingham v. Holder*, 637 F.3d 1040, 1045 (9th Cir. 2011). The probative force of a declaration subscribed under penalty of perjury derives from the signature of the declarant.

Although the "regulations do not require that the person signing submit an 'original' or 'wet ink' signature on a petition, application, or other request to USCIS," we do "not accept signatures created by a typewriter, word processor, stamp, auto-pen, or similar device." 1 *USCIS Policy Manual*, *supra*, at B. *Also see* 1 *USCIS Policy Manual*, *supra*, at A (stating that "[e]xcept as otherwise specifically authorized, a benefit requestor must personally sign his or her own request before filing it with USCIS"). USCIS has implemented these regulations and attendant policies "to maintain the integrity of the immigration benefit system and validate the identity of benefit requestors." 1 *USCIS Policy Manual*, *supra*, at A. Finally, the regulation at 8 C.F.R. § 292.4(a) requires that the Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative "must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS."

It appears that at least three signatures in the record might not comply with the regulation or USCIS policy.[1] We especially observe that the Petitioner's signatures appear idiosyncratic on the Form G-28 that accompanied the petition, as well as his signature on the petition itself. They first drew our attention as they are much lighter in color than a signature normally appears. Upon further review of the physical document itself, we observed no impression from the signature on the opposite side of the paper, and closer inspection of the signature revealed that it is comprised of small lines or shading. This appears to be a variation of the Ben Day technique in which printing—or in this case electronically transposing an item—uses lines or textures to create a lighter shaded product while using less ink than it would take to make a solid line. Laurence Petit and Pascale Tollance, *Point, Dot, Period...The Dynamics of Punctuation in Text and Image*, 10 (Cambridge Scholars Publishing) (2016).

After those factors raised suspicion, we compared these signatures to the rest of his signatures in the record and we discovered that at least three signatures are identical in numerous observable manners. Those three identical signatures appear on the Form G-28 submitted before the Director, on the petition, and on the Petitioner's personal statement he filed when he filed the petition. The Director may wish to determine if those representations were electronically transposed onto the documents, because if they were, then each signature would not be considered a valid signature in accordance with the regulation and agency policy.[2]

We acknowledge that in some instances, a photocopy of an original signature is acceptable on USCIS forms. But such acceptance is limited to when the filing party: (1) executes an original signature directly onto the immigration form, (2) a photocopy is made of that form, and (3) the photocopy of the original signature on the original immigration form is submitted to USCIS. USCIS policy specifically states that any such photocopy "must be of an original document containing an original handwritten signature, unless otherwise specified." *See generally* 1 *USCIS Policy Manual*, *supra*, B.2(B). That is not what we seemingly have before us here, and the Director may wish to decide if these indistinguishable representations of the Petitioner's signature make it more likely than not that they were electronically transposed onto the immigration forms, which would not adhere to the stated policy.

Without knowing whether these documents are in compliance with the regulation and USCIS policy, we cannot determine whether the original petition was properly filed. *See generally* 8 C.F.R. § 103.2(a). Further, in the same way that one person signing a declaration "for" another person carries no evidentiary force, neither will an image of a signature duplicated in using some electronic means or method. Without the signatory's actual and personal signature as the declarant, the Director would operate within their authority in concluding that the Petitioner's declaration under the penalty of perjury on these immigration forms has no evidentiary force. *See In re Rivera*, 342 B.R. 435, 458–59 (D. N.J. 2006); *Blumberg v. Gates*, No. CV 00-05607, 2003 WL 22002739 (C.D. Cal. Aug. 19, 2003).

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[1] In making this observation, we do not propose to be handwriting experts. But we can identify identical appearing representations of a person's identity, especially when they contain characteristics that are identical in their slant or angle, where the writing instrument lifts at identical portions of various letters, symmetry of the letters, etc.

[2] We discuss the Petitioner's personal statement because it is identical to the other documents. In doing so, we acknowledge that his personal statement is not an immigration form, subject to the requirements described in the regulation and agency policy.

If the Director were to determine the signature on the petition is deficient, in line with agency policy, it is within their discretion to issue an adverse decision on that basis. *See generally* 1 *USCIS Policy Manual*, *supra*, B.2(A). Because the signature issue was not addressed previously before the Director, and because the record otherwise supports a favorable determination on a third criterion and warrants a remand, we will not make a decision on the signature issue in the first instance here. However, the Petitioner should be prepared to demonstrate that each of the signatures on immigration forms in the record comply with the regulation and with USCIS policy on this issue.

III. CONCLUSION

Because the Petitioner has overcome the only stated ground for denial, we remand this matter so the Director can reevaluate whether the petition warrants an approval to include the signature issue and, if they find in the Petitioner's favor on that requirement, a final merits determination in keeping with the *Kazarian* framework.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.