U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 24733484

Date: MAR. 2, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a mixed martial arts athlete, 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 the Petitioner met the initial evidence requirements for the classification by establishing his receipt of a major, internationally recognized award or by meeting three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (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 will dismiss the appeal.

On appeal, the Petitioner does not explain how the Director erred in any of her findings but instead generally stated that the Director "misinterpreted his qualification and arrived at the wrong decision," and resubmits several documents it submitted below.

We adopt and affirm the Director's decision. *See Matter of Burbano*, 20 I&N Dec. 872, 874 (BIA 1994); *see also Giday v. INS*, 113 F.3d 230, 234 (D.C. Cir. 1997) (noting that the practice of adopting and affirming the decision below has been "universally accepted by every other circuit that has squarely confronted the issue"); *see also Urukov v. INS*, 55 F.3d 222, 227-28 (7th Cir.1995)(If a reviewing tribunal decides that the facts and evaluative judgments prescinding from them have been adequately confronted and correctly resolved by a trial judge or hearing officer, then the tribunal is free simply to adopt those findings provided the tribunal's order reflects individualized attention to the case).

On appeal, the Petitioner submits two new letters from Ministry of Education and Sciences of Ukraine Committee of Physical Education and Sports [redacted] Office (MES). The Petitioner submits

the first letter as evidence toward satisfaction of the criterion regarding membership in associations in the field for which classification is sought, which requires outstanding achievements of their members, judged by recognized national or international experts in their disciplines or fields. The letter confirms the Petitioner is a "Master of Sports of Ukraine – World Class" and indicates this is an elite membership group and membership is obtained by non-team sports athletes if they reach the final of a major international tournament. However, as noted by the Director, the Petitioner did not provide sufficient evidence outlining the eligibility requirements to obtain this title. Absent from the evidence is a showing that MES utilized nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements were outstanding, and an indication that this outstanding determination as a condition of eligibility for membership. It is insufficient to allege eligibility through conclusory assertions that are not supported by sufficient evidence, which proves the allegation.[1]

The Petitioner submits the second letter from MES as evidence he "performed in a leading role for his country in international tournaments." The letter confirms the Petitioner was the "leading athlete in his weight class for All Ukrainian Federation of Free-Fight which is a sanctioning organization for all mixed martial arts events in Ukraine." However, it does not sufficiently demonstrate the Petitioner performed in a leading or critical role for organizations or establishments that have a distinguished reputation and primarily contains bare assertions of acclaim and vague claims of contributions without specifically identifying contributions and providing specific examples of how those contributions rise to a level consistent with major significance in the field. Merely repeating the language of the statute or regulations does not satisfy the Petitioner's burden of proof. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.). Similarly, USCIS need not accept primarily conclusory assertions. *See 1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. at 17.

For the above stated reasons, the petition will remain denied.

ORDER: The appeal is dismissed.

[1] *Matter of Ho*, 22 I&N Dec. 206, 213 (Assoc. Comm'r 1998); *Fano v. O'Neill*, 806 F.2d 1262, 1266 (5th Cir. 1987); *1756, Inc. v. Att'y Gen*, 745 F. Supp. 9, 17 (D.D.C. 1990).