



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 25462962

Date: MAR. 23, 2023

Appeal of Nebraska Service Center Decision

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

The self-Petitioner seeks classification as a noncitizen of “extraordinary ability” in the field of improving business supply chains with enterprise resource planning (ERP) software. *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 provides immigrant visas to noncitizens who demonstrate extraordinary ability based on “sustained national or international acclaim” and submit “extensive documentation” showing recognition of achievements in their fields. *Id.*

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner met two of ten preliminary, evidentiary standards - one less than the three required for the requested classification. On appeal, the Petitioner submits additional evidence. He contends that, contrary to the Director’s finding, he belonged to associations in his field requiring outstanding achievements of their members by the petition’s filing. He also asserts his demonstration of his performance in leading or critical roles for organizations with distinguished reputations.

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). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 357, 357 n.2 (AAO 2015), we conclude that the Petitioner has not demonstrated his satisfaction of a third evidentiary standard. We will therefore dismiss the appeal.

I. LAW

To qualify for the requested immigrant visa category, a petitioner must demonstrate that:

- They have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- They seek to continue work in their field of extraordinary ability in the United States; and
- Their work would substantially benefit the country.

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

The term “extraordinary ability” means a level of expertise commensurate with “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 extraordinary ability must demonstrate a noncitizen’s receipt of either “a major, international recognized award” or satisfaction of at least three of ten lesser evidentiary standards. 8 C.F.R. § 204.5(h)(3). If a petitioner meets either of these requirements, U.S. Citizenship and Immigration Services (USCIS) must then determine whether an overall record establishes sustained national or international acclaim, demonstrating a noncitizen’s ranking 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. ANALYSIS

The Petitioner, a native and citizen of India, earned two bachelor of science degrees in his home country: one in mathematics; the other in textile chemistry. He worked about six years for textile manufacturers and machinery companies, gaining knowledge of end-to-end supply chain processes. The Petitioner then obtained a post-graduate diploma in management and ERP software certificates in supply chain manufacturing, advanced planning, and optimization. For about the past 20 years, he has worked as a software consultant in India and the United States, helping to improve supply chains of multinational companies in a variety of industries, including: textile; automotive; food manufacturing; and aerospace and defense. He contends he has extraordinary ability in improving business supply chains with ERP software.

The Petitioner did not claim or demonstrate his receipt of a major, international award. *See* 8 C.F.R. § 204.5(h)(3). But the record supports the Director’s findings that he met two of the ten alternate evidentiary standards. The record demonstrates his authorship of scholarly articles about ERP software and business supply chain processes. *See* 8 C.F.R. § 204.5(h)(3)(iv). He also established his participation as a judge of others’ work in the field. *See* 8 C.F.R. § 204.5(h)(3)(vi).

On appeal, the Petitioner contends that the Director erred in finding that he did not meet at least a third evidentiary standard. He asserts his membership in associations in his field that require outstanding achievements of their members, and his performance in leading or critical roles for organizations with distinguished reputations. *See* 8 C.F.R. § 204.5(h)(3)(ii), (viii).

A. Membership in Associations in the Field Requiring Outstanding Achievements

This evidentiary standard requires “[d]ocumentation of the alien’s 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.” 8 C.F.R. § 204.5(h)(3)(ii).

In response to the Director’s July 7, 2022 request for additional evidence (RFE), the Petitioner submitted documentation of his purported affiliations with various organizations, including: the Royal Academy of Engineers in the United Kingdom; the publisher of “Who’s Who in America;” and Nest, a U.S. nonprofit organization supporting growth of handmade goods around the world. The Director found that, because the Petitioner’s documents bear dates after the petition’s June 28, 2022 filing, the evidence does not establish his claimed memberships in these organizations at the time of the petition’s

filing. *See* 8 C.F.R. § 103.2(b)(1) (requiring a petitioner to demonstrate eligibility “at the time of filing the benefit request”). The Director therefore concluded that the documentation did not meet the evidentiary standard. On appeal, the Petitioner asserts that he joined the organizations before the petition’s filing.

1. The Royal Academy of Engineers

In his RFE response, the Petitioner stated his “role as a mentor for [the] Engineering Leaders Scholarship program at the prestigious Royal Academy of Engineering[,] developing and supporting the next generation of leaders in Engineering.” He submitted the first five pages of a purported ten-page academy document outlining “the expectations of being a mentor” in the program and printouts of pages on the academy’s website regarding the organization’s “strategy” for 2020 to 2025. The academy’s website states that the organization “harness[es] the power of engineering to build a sustainable society and an inclusive economy that works for everyone.” Royal Acad. of Eng’g, <https://raeng.org.uk/>.

On appeal, the Petitioner submits copies of June 2022 emails between him and the manager of the Royal Academy of Engineering’s mentoring program.¹ The copies show that, on June 9, the Petitioner messaged the British academy, stating his interest in “mentoring opportunities” and asking whether he could participate from his location in the United States. The academy manager responded the same day, stating that, as long as the Petitioner and his “mentee” agree on suitable times for online video meetings, the Petitioner’s location in the United States would not bar his participation in the program. The manager also asked the Petitioner about his background and how he learned of the mentoring opportunity. He responded the same day, attaching a copy of his curriculum vitae and stating that an academy official had emailed him about the opportunity. On June 13, the manager messaged the Petitioner that the academy “would love to onboard you as a Mentor for our Engineering Leaders Scholarship” and thanked him for his “generous offer to support our engineering students.” The email also explained how he could create an online, “mentoring profile” to be matched with a mentee. The Petitioner contends that the email exchange demonstrates his June 13, 2022 approval as an academy mentor, before the petition’s June 28, 2022 filing.

The Petitioner has demonstrated his acceptance as a mentor with the Royal Academy of Engineering before the petition’s filing. But the Petitioner’s materials do not meet the evidentiary standard at 8 C.F.R. § 204.5(h)(3)(ii). A petitioner must demonstrate their membership in an association and that the membership required judgments by recognized national or international experts that the noncitizen attained outstanding achievements in their field. *See generally* 6 USCIS Policy Manual F.(2), App’x.: Extraordinary Ability Petitions - First Step of Reviewing Evidence, <https://www.uscis.gov/policy-manual>. If an association has multiple levels of membership, a petitioner must show that, to obtain their membership level, recognized national or international experts judged the noncitizen’s achievements in the field to be outstanding. *Id.*

¹ If a petitioner received sufficient, prior notice of required proof and a reasonable opportunity to provide it, we generally disregard evidence on appeal. *See Matter of Izaguirre*, 27 I&N Dec. 67, 71 (BIA 2017). The Director’s RFE did not notify the Petitioner that his evidence had to establish his eligibility “at the time of filing the benefit request.” *See* 8 C.F.R. § 103.2(b)(1). We will therefore consider the Petitioner’s evidence on appeal.

The Petitioner's evidence does not establish his membership in the Royal Academy of Engineering. Rather, the materials indicate only his acceptance as a mentor in an academy program. Our review of the academy's website did not find any information about "membership." Rather, the site refers to an academy "fellowship," which stems from annual elections of academy "fellows" in recognition of their "outstanding and continuing contributions to the profession." *Id.*, at <https://raeng.org.uk/about-us/fellowship>. The Petitioner, however, has neither claimed to be an academy "fellow" nor demonstrated his election as one.

Further, even if the Petitioner's acceptance as a mentor qualified him as a member of the Royal Academy of Engineering, he would not have established that his membership required judgments by recognized national or international experts of his attainment of outstanding achievements in his field. The Petitioner submitted mentoring program documentation describing a mentor as "an established or experienced person." But the documents do not detail any other qualifications. We therefore conclude that the Petitioner's evidence of his mentorship at the engineering academy does not meet the standard at 8 C.F.R. § 204.5(h)(3)(ii).

2. "Who's Who in America"

The Petitioner's RFE response stated his inclusion in "Who's Who in America," an online directory containing short biographies of distinguished Americans in various fields. An August 5, 2022 letter from the publisher's editorial team congratulates the Petitioner on his inclusion in the directory. The letter states that the registry seeks "to profile those individuals who have made a difference by virtue of the positions of responsibility they hold and/or due to noteworthy accomplishments they have made." According to a certificate the Petitioner received from the publications board, inclusion in the directory "is limited to individuals who possess professional integrity, demonstrate outstanding achievement in their respective fields and have made innumerable contributions to society as a whole." A printout from the publisher's website states the company's receipt of nominations from "personal referrals, industry surveys, review of significant publications, and through our continual monitoring of newspapers, magazines, awards, grants, educational and corporate records." The printout states "we select individuals for inclusion based on professional and personal accomplishments, education, contributions to society, and involvement with important institutions or events."

On appeal, the Petitioner submits a copy of a June 22, 2022 email, congratulating him on his nomination for inclusion in "Who's Who in America" and urging him to "[a]ccept your nomination to verify your information and provide the details of your accomplishments." Blaming "long processing times and administrative delays," the Petitioner admits that he did not receive notice of his inclusion in the directory until after the petition's June 28, 2022 filing. But he asserts that the June 22 email from the publisher shows that his "nomination/selection" and "actual inclusion" in the directory predated the petition's filing.

The June 22, 2022 email, however, does not support the Petitioner's assertion. The email indicates that the Petitioner's nomination did not guarantee his inclusion in the directory. The email states: "Your information will be reviewed to determine qualification. Upon confirmation, you will be listed among 1.5 million of the world's most successful professionals in our online registry." Thus, the June 22 email does not constitute approval of the Petitioner's listing in the registry. Rather, the message indicates that approval would not occur until "confirmation" of his "qualification." The email

therefore does not establish the Petitioner's inclusion in "Who's Who in America" before the petition's filing. Thus, he has not demonstrated his satisfaction of the evidentiary standard "at the time of filing the benefit request." *See* 8 C.F.R. § 103.2(b)(1).

Also, while the Petitioner's certificate states the directory's inclusion of people who, in part, "demonstrate outstanding achievement in their respective fields," the Petitioner has not established that "recognized national or international experts" in his field judged his achievements to be outstanding. *See* 8 C.F.R. § 204.5(h)(3)(ii). The printout from the publisher's website states "we select individuals for inclusion," indicating that the publisher's employees judge candidates' accomplishments. (emphasis added). Reportedly, "an editorial team of 70, including 12 researchers, make the call on who's notable and who's not." William L. Hamilton, "Who Are You? Why Are You Here?" *The New York Times* (Nov. 13, 2005), <https://www.nytimes.com/2005/11/13/fashion/sundaystyles/who-are-you-why-are-you-here.html>. The Petitioner has not demonstrated that the editorial team that selected him for inclusion in "Who's Who in America" included recognized national or international experts in his field. For this additional reason, the documentation of his inclusion in the directory does not meet the evidentiary standard at 8 C.F.R. § 204.5(h)(3)(ii).

3. The Nonprofit Fellowship

The Petitioner's RFE response also included copies of emails regarding his interest in becoming a fellow at the nonprofit organization. A printout of the nonprofit's website describes the fellowships as "virtual consulting opportunities . . . to work on a unique project in support of an artisan business."

The emails show that, on June 18, 2022, the Petitioner messaged the nonprofit, identifying himself as a "textile engineering graduate" and asking about "the process for becoming a fellow." Three days later, an organization official responded to him, providing information about the fellowship program and, if he was still interested in the role, asking him to complete an "intake survey." That same day, the Petitioner replied to the official, stating his completion of the survey and asking for "an official certificate of professional fellow that I am part of this fellowship program at an advisory level based on my industry and technology expertise." The official did not respond to the Petitioner until September 13, 2022, indicating the nonprofit's acceptance of his fellowship. The message states: "We are thrilled to have you on board for this impactful program. More details will be shared shortly." The official also stated that, although the organization did not issue fellowship certificates, it would consider doing so in the future.

On appeal, the Petitioner downplays the significance of his June 21, 2022 email to the nonprofit, describing it as "a follow-up email asking for a certificate." He contends that he completed the "actual formalities" of becoming a fellow on that date, before the petition's June 28, 2022 filing.

The Petitioner has not met his burden of demonstrating the nonprofit's acceptance of his fellowship before the petition's filing. *See* 8 C.F.R. § 103.2(b)(1). Even if he did, however, the Petitioner would not satisfy the evidentiary standard. He has not established that his fellowship required recognized national or international experts in his field to find his attainment of outstanding achievements. *See* 8 C.F.R. § 204.5(h)(3)(ii). Thus, the Petitioner's proof of his fellowship at the nonprofit does not meet the evidentiary standard.

The Petitioner has not demonstrated his satisfaction of the evidentiary standard at 8 C.F.R. § 204.5(h)(3)(ii). We will therefore affirm that portion of the Director's decision.

B. Performance in Leading or Critical Roles for Organizations with Distinguished Reputations

The Petitioner contends that he met another evidentiary standard. This provision requires “[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.” 8 C.F.R. § 204.5(h)(3)(viii).

In assessing eligibility under this standard, USCIS first determines whether the evidence demonstrates a petitioner's performance in a leading or critical role. *See generally* 6 USCIS Policy Manual F.(2), App'x: Extraordinary Ability Petitions – First Step of Reviewing Evidence. A leading role means that a petitioner “is (or was) a leader within the organization or establishment or a division or department thereof.” *Id.* A critical role means that a noncitizen “has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment.” *Id.*

Next, USCIS determines whether an organization, establishment, department, or division for which a petitioner held a leading or critical role has a distinguished reputation. A distinguished reputation finding must stem from consideration of multiple factors, not just “the relative size or longevity of an organization or establishment.” *Id.*

The Director concluded that the Petitioner did not demonstrate his performance in a leading or critical role. As proof of his purported qualifying roles, the Petitioner submitted seven letters from officials of his current and former employers, and one from an official of a former client. The Director found that the letters do not:

illustrate how [the Petitioner's] role made him more valuable than other colleagues at his places of employment. The evidence indicates that the petitioner is successful at accomplishing his job duties, but the record does not contain evidence to show that he was responsible for any organization's success or standing to a degree consistent with the meaning of “leading or critical role.”

The Petitioner contends that “recognized and reputable leaders” wrote the letters for him. He states that his roles have been leading and critical because they required “cross-functional skills to manage programs/projects of significant importance to the distinguished organizations.”

The letters state that the Petitioner played “key” and “critical” roles in multiple supply chain software projects. As the Director found, however, the letters lack sufficient details to explain how his roles were leading or critical. For example, letters from two senior information technology executives at the Petitioner's current employer praise his role in integrating the business of an acquired company into the employer's supply chain operations. They state that he led an “important” integration of the employer's tomato business onto a modernized platform to better manage the acquired tomato operations. But the letters do not detail the Petitioner's activities, whom or how he led the integration

efforts, challenges he faced, or how he overcame them.² Also, although the letters describe the integration of the tomato businesses as “important,” the documents do not explain why the project was important or why company officials chose the Petitioner to purportedly lead it.

Some letters from the Petitioner’s current and former employers are also unreliable. As the Director’s RFE states, the bodies of the two letters from the executives at the Petitioner’s current employer virtually match. The letters’ common language suggests that the same person drafted both documents, casting doubt on the signatories’ purported knowledge and descriptions of the Petitioner’s work. *See Matter of R-K-K-*, 26 I&N Dec. 658, 665 (BIA 2015) (holding that numerous and obvious similarities between documents supported an adverse credibility determination). In the Petitioner’s RFE response, one signatory asserted that he wrote his letter. The other admitted that “I did ask [the Petitioner] to write up a bullet sheet of the activities he performs for my organization, but I can assure you that what I have written . . . is an honest and accurate representation of the work and effort [he] put forth.” Further, much of an undated letter from an executive at a former employer of the Petitioner matches a portion of a 2009 letter from another official of the employer. The employer submitted the 2009 letter to a U.S. Consulate in India in support of the issuance of a nonimmigrant work visa to the Petitioner. The Petitioner’s inclusion of a copy of the 2009 letter in his RFE response revealed the similarities between the 2009 letter and the previously submitted document from the executive. Also, the executive’s document was not printed on company or even his personal letterhead, casting doubt on its authenticity.

The Petitioner’s support letters lack sufficient details to establish the purported leading and critical roles he performed for his current and former employers. Similarities between the letters also cast doubt on their accuracy and reliability. The Petitioner therefore has not demonstrated that he met the evidentiary standard at 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner has not submitted the required initial evidence of either a one-time award or satisfaction of at least three of the ten lesser criteria. We therefore need not make a final merits determination on his claimed possession of extraordinary ability. *See Kazarian*, 596 F.3d at 1119-20. Nevertheless, we reviewed the entire record and concluded that it does not support the Petitioner’s receipt of the level of acclaim and recognition required for the requested classification. The record also does not otherwise demonstrate his rank among the small percentage who have risen to the very top of his field of endeavor. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

The Petitioner has not established his eligibility for classification as a noncitizen of extraordinary ability. We will therefore affirm the petition’s denial.

ORDER: The appeal is dismissed.

² The record contains details about software projects on which the Petitioner purportedly worked. But he appears to have written this information. The information is unreliable because the Petitioner may be biased in describing his roles on the projects. Also, the record lacks sufficient evidence corroborating his statements. *See generally* 6 *USCIS Policy Manual* F.(2)(B)(1) (“statements made by . . . witnesses should be corroborated by documentary evidence in the record”).