U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 25638922

Date: MAY 17, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner, a soccer academy, seeks to permanently employ the Beneficiary as a soccer coach under the first preference immigrant classification as an individual of extraordinary ability in the athletics. *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 Beneficiary qualifies as an individual of extraordinary ability either as the recipient of a one-time achievement that is a major, internationally recognized award, or as someone who satisfied at least three of the ten regulatory criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x). 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.[1]

I. LAW

Section 203(b)(1) of the Act makes visas available to immigrants 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

[1] The record indicates that the Beneficiary is currently in the United States in O-1 nonimmigrant status. Although we acknowledge that this status relates to extraordinary ability, the record of proceeding for the approved nonimmigrant petition is not before us, and we cannot determine whether the facts in that case were the same as those in the present proceeding. Further, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard – statute, regulations, and case law. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. *See La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

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 a beneficiary's achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then it must provide sufficient qualifying documentation demonstrating that the beneficiary 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 demonstrates that the beneficiary 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 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. ANALYSIS

The Petitioner is a youth soccer club that operates the [redacted] in Utah and is dedicated to the development of youth soccer. It states that as a result of the Beneficiary's "international renown as one of the world's leading coaches," employing him will enhance its club's reputation and benefit the entire U.S. soccer community.

A. Evidentiary Criteria

The Petitioner does not claim or submit evidence to show that the Beneficiary received a major, internationally recognized award. Rather, it claims that the Beneficiary qualifies for EB-1A classification because he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i) – (x). The Director found that the Beneficiary met only one of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(viii), which relates to his performance in a leading or critical role in an organization with a distinguished reputation. We agree with the Director's finding, which is supported by such evidence as the Petitioner's informational materials listing the Beneficiary's position as "Head of Futures Elites" players as well as articles and letters discussing the Beneficiary's positions as head coach of the [redacted] Football Club and [redacted] Football Club.

Accordingly, the Petitioner must demonstrate that the Beneficiary satisfies the evidentiary requirements of at least two other criteria. On appeal, the Petitioner asserts that he meets four other criteria,[2] three of which we will analyze below, commencing with the following:

> *Documentation 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 order to meet this criterion, a noncitizen must show that they are a member in an association in their field, that this association requires outstanding achievements of their members, and that this requirement is judged by national or international experts in the field. The Petitioner claims this criterion on the basis of the Beneficiary's membership in the [redacted] Technical Football Commission [redacted] and his attainment of the Level A Coaching License from the Union of European Football Associations (UEFA). Regarding the former, the Director acknowledged the Petitioner's submission of letters and information about the organization but concluded that no evidence was provided to show that [redacted] requires outstanding achievements of its members as judged by recognized national or international soccer experts. On appeal, the Petitioner points to a previously submitted letter, which focuses on the Beneficiary's membership in [redacted] but it does not address the lack of evidence pertaining to the organization's membership requirements. As such, the Petitioner has not established that [redacted] requires outstanding achievements of its members as judged by recognized national or international soccer experts.

Turning to the Beneficiary's association with the UEFA, the Director determined that evidence of a coaching license issued to the Beneficiary by the UEFA is insufficient to show his membership in that organization. On appeal, the Petitioner restates, verbatim, its claim concerning "the difficulty and prestige of membership" in the UEFA and once again lists the Level A license requirements, arguing that eligibility for membership is open only to those who "have worked substantially in the field" and demonstrated to UEFA experts "that they have reached the top of their field." Although the Petitioner points to appeal exhibit C to support this claim, the exhibits are not labeled, thus making it unclear which documents represent evidence that pertains to UEFA membership requirements. We have, however, reviewed the documents submitted. Moreover, most of the supporting evidence on appeal consists of resubmitted documents that had been originally provided in support of the petition and in response to a request for evidence (RFE). And while the Petitioner submits a copy of the Beneficiary's UEFA A Diploma along with a list of requirements for attaining the UEFA A coaching license, it offers no evidence establishing the Beneficiary's membership in the UEFA or the UEFA's membership requirements. The Petitioner must support its assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

Because the Petitioner has not provided evidence establishing that the UEFA requires outstanding achievements of their members nor established that the Beneficiary is a member of the UEFA, and

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[2] The Petitioner initially claimed that the Beneficiary meets the evidentiary requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(i), which pertains to receipt of lesser national or internationally recognized prizes or awards of excellence. However, the Petitioner does not pursue its claim to this criterion on appeal, and we therefore will not address this criteria in our analysis.

likewise has not provided evidence establishing that [redacted] requires outstanding achievements of their members, the Petitioner has not demonstrated that the Beneficiary meets the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

Next, we will discuss the criterion at 8 C.F.R. § 204.5(h)(3)(iv), which requires the following:

> *Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought.*

The phrase "as a judge" in the regulations implies a formal designation in a judging capacity, either on a panel or individually; the regulation also requires evidence showing that the Beneficiary actually participated in judging the work of others "in the same or allied field of specialization." *Id.* Here, the Director determined that a letter discussing the Beneficiary's former position as a youth technical manager at a youth soccer academy did not serve as evidence that he met this criterion.

On appeal, the Petitioner disputes the Director's determination, pointing out that the Beneficiary served as head coach for professional soccer teams and judged "numerous youth individuals in the field of soccer" as part of his role with the [redacted] Commission; the Petitioner claims that this role "was critical" to the global advancement of soccer because it required the Beneficiary to "review" individual players and make decisions "that impacted the sport as a whole." As proof that the Beneficiary was successful in this role, the Petitioner provided evidence showing that the Beneficiary received an award for his "contribution and significant achievement in the field." Although receiving an award indicates that the Beneficiary's work was considered, it is not evidence that the Beneficiary has participated, either individually or on a panel, as a judge of the work of others. . Nor has the Petitioner shown that either coaching or recruiting players and coaches are responsibilities that constitute the Beneficiary's participation, either individually or on a panel, as a judge of the work of others in the field. As such, the Petitioner has not overcome the Director's adverse finding regarding this criterion.

Lastly, we will address the Petitioner's assertion that Beneficiary meets the criterion at 8 C.F.R. § 204.5(h)(3)(v), which requires the following:

> *Evidence of the individual's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).*

To satisfy this criterion, a petitioner must establish that not only were the contributions original, but also that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance. *See Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013).

In support of this criterion, the Petitioner argues that the Beneficiary's "original coaching strategies" contributed to the development of "world class coaches" and points to previously submitted letters from the Beneficiary's former colleagues and professional contacts in the soccer domain. Many of the authors describe the Petitioner's professional accomplishments and the specific results he achieved

for teams and individual players. However, the authors do not identify any original contributions, nor do they provide specific, detailed information explaining how the contributions have been majorly significant in the field. Letters that specifically articulate how a petitioner's contributions are of major significance to the field and its impact on subsequent work add value.[3] On the other hand, letters that lack specifics and use hyperbolic language do not add value and are not considered to be probative evidence that forms the basis for meeting this criterion.[4] Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Here, the evidence indicates that the Beneficiary positively influenced and impacted a team or individual players, but it does not support a finding that the Beneficiary affected or significantly contributed to the field of soccer coaching. The letters do not describe any specific methods or techniques the Beneficiary developed to support a finding that his contributions to players and teams are original. Even if any of the soccer clubs in which the Beneficiary participated as a coach used policies, strategies, or methods that he developed, this would not demonstrate his impact or influence in the overall field of soccer.[5] Because the Petitioner has not established that the Beneficiary's achievements as a soccer coach are original contributions which have been of major significance to the sport of soccer, we conclude that the Beneficiary does not meet this criterion.

B. Reserved Issues

The Petitioner also asserts that the Beneficiary meets the criterion at 8 C.F.R. § 204.5(h)(3)(iii), which relates to published material about the Beneficiary in major trade or media publications. However, given the deficiencies described above, the Petitioner has not established that the Beneficiary meets three of the four evidentiary criteria claimed on appeal, and would not establish that he met three out of ten criteria even if we considered the final claim. Therefore, we need not determine whether he meets the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(iii), nor do we need to provide the type of final merits determination referenced in *Kazarian,* 596 F.3d at 1119-20. Accordingly, we will reserve these issues. *See INS v. Bagamasbad,* 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of the

[3] *See generally* USCIS Policy Memorandum PM 602-0005.1 at 8-9, Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6 (Dec. 22, 2010), https://www.uscis.gov/policymanual/HTML/PolicyManual.html.

[4] *Id*. at 9. *See also Kazarian*, 580 F.3d at 1036, aff'd in part 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

[5] *See generally* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9; *see also Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole).

Beneficiary's work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); see also section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Beneficiary has garnered national or international acclaim in the field, and that he is one of the small percentage who have risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

ORDER: The appeal is dismissed.