



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

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

MATTER OF G-R-

DATE: AUG. 26, 2016

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a sports manager, 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, Texas Service Center, denied the petition. The Director concluded that the Petitioner did not satisfy the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which necessitates either 1) documentation of a one-time major achievement, or 2) materials that meet at least three of the ten regulatory criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).

The matter is now before us on appeal. In his appellate brief, the Petitioner maintains that the Director erred in finding he did not meet at least three of the ten regulatory criteria. In addition, he states that he has demonstrated his eligibility for the extraordinary ability classification.

Upon *de novo* review, we will dismiss the Petitioner’s appeal.

I. LAW

The Petitioner may demonstrate his extraordinary ability through sustained national or international acclaim and achievements that have been recognized in his field through extensive documentation. Specifically, section 203(b)(1)(A) of the Act states:

Aliens with extraordinary ability. -- An alien is described in this subparagraph if –

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international 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 sustained acclaim and the recognition of his achievements in the field through a one-time achievement (that is a major, internationally recognized award). If he does not submit this documentation, then he must provide sufficient qualifying evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *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), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that U.S. Citizenship and Immigration Services (USCIS) examines "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true"). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of 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.

II. ANALYSIS

On appeal, the Petitioner acknowledges that he has not submitted documentation of a one-time achievement, or evidence of a major, internationally recognized award at a level similar to that of the Nobel Peace Prize. In addition, the record does not establish that he meets at least three of the ten regulatory criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x). As he has not satisfied the initial evidence requirements, we will dismiss the appeal.

A. Evidentiary Criteria¹

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.

¹ We have reviewed all of the Petitioner's evidence and will address those criteria he indicates he meets or for which he has submitted relevant and probative documentation.

Matter of G-R-

The Director concluded that the Petitioner did not meet this criterion. The record supports this finding. In his initial filing, the Petitioner indicated that he was a [REDACTED] member. He presented copies of a [REDACTED] membership card and other [REDACTED] credentials. As discussed in the Director's decision, the Petitioner did not show that [REDACTED] requires "outstanding achievements" from its members, or that the outstanding achievements be "judged by recognized national or international experts in their disciplines or fields." The record lacks information on how one becomes a [REDACTED] member, or what criteria, if any, one must satisfy. On appeal, the Petitioner does not maintain that the Director erred in his conclusion. Accordingly, the Petitioner has not met the plain language of this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

The Director found that the Petitioner met this criterion. The record does not support this conclusion. The Petitioner submitted foreign language published materials, but did not present a translation certificate that meets the requirements under 8 C.F.R. § 103.2(b)(3). Specifically, the regulation provides: "Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." While the record includes English translations of the foreign language materials, it lacks documents certifying that the translators are competent to translate, or that the translations are "full" and "complete," as required under the regulation. For example, the Petitioner presented a one-paragraph English translation for a [REDACTED] article that had over 20 paragraphs in a foreign language.

In addition, the Petitioner has not shown that the submitted published materials appeared in professional or major trade publications or other major media. To show that a publication qualifies under this criterion, a petitioner must present evidence about the publication. Without corroboration, a petitioner cannot establish that the published materials meet the plain language of the criterion. In this case, the Petitioner presented information relating only to three publishers: [REDACTED] and [REDACTED]. As he has not offered evidence about the other publishers, including websites, he has not demonstrated that they constitute professional or major trade publications or other major media, or that their published materials meet this criterion.

Moreover, the Petitioner has not shown that [REDACTED] or [REDACTED] constitutes a professional, major trade publication or other major media. According to an online printout, [REDACTED] is a weekly publication that "covers motorsports with priority to the [REDACTED] and the [REDACTED]." The printout did not offer information on the magazine's circulation. While the magazine appears to be a trade publication, without presenting its circulation data, the Petitioner has not verified that it is a major trade publication or major media, as required under the plain language of the criterion.

(b)(6)

Matter of G-R-

Furthermore, although the record shows that [REDACTED] a newspaper in Brazil, has a circulation of 140,000 copies, the Petitioner has not demonstrated that this circulation level illustrates that [REDACTED] is either a major trade publication in the field of sports management or major media. [REDACTED] a professor of sports management at the [REDACTED] stated that [REDACTED] is "one of the most popular economic newspapers in Brazil's history." Neither [REDACTED] nor the Petitioner, however, has presented evidence in support of this statement, or verified that [REDACTED] circulation is indicative of its status as a major trade publication or major media. In addition, as discussed, the Petitioner has not filed a complete English translation of the [REDACTED] article, as required under 8 C.F.R. § 103.2(b)(3).

Similarly, while one online source indicated that [REDACTED] a monthly magazine published in the United Kingdom, has a monthly circulation of approximately 65,000 copies, the Petitioner has not shown that this circulation level illustrates the publication's status as a major trade publication or major media. The Petitioner presented a printout from [REDACTED] website, stating that it is "the world's best-selling [REDACTED] magazine." The record, including the printout and other materials, does not verify the magazine's bestselling status. The Petitioner has not offered information relating to other magazines in the field, or a circulation data comparison between [REDACTED] and other trade publications. Without additional corroboration, the Petitioner has not demonstrated that [REDACTED] or [REDACTED] constitutes a professional, major trade publication or other major media, as required under the plain language of the criterion.

Finally, some of the materials submitted in support of this criterion appeared to be press releases that came from the Petitioner's businesses. They were not published materials in a qualifying publication or major media. For example, articles posted on both [REDACTED] and [REDACTED] noted that readers could obtain additional information from [REDACTED]. The Petitioner has not demonstrated that press releases, which are promotional in nature, meet the plain language of this criterion. Based on all the reasons we have discussed, the Petitioner has not shown that he meets this criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

On appeal, the Petitioner maintains that he meets this criterion because he opened "the first company completely dedicated to motorsports in Brazil, [REDACTED] (1992) which later expanded to [REDACTED] (1996)." He states that until 2010, [REDACTED] was the only agency in Latin America that was accredited by the [REDACTED]

He provides that he has "brought international competitions to Brazil such as [REDACTED] and [REDACTED]. He also indicates that he has facilitated celebrity performances in Brazil.

To meet this criterion, a petitioner's contributions must be both original and of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v). The term "original" and the phrase "major significance" are not

Matter of G-R-

superfluous and, thus, have some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3d Cir. 1995), *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2d Cir. 2003). The plain language of the criterion dictates that a petitioner's contributions must be original, such that he is the first person or one of the first people to have done the work in the field, and that his contributions must be of major significance in the field, such that they significantly advanced or impacted the field as a whole. Regardless of the field, the phrase "contributions of major significance in the field" requires substantiated impacts beyond one's collaborators, employer, clients or customers. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

The Petitioner has presented reference letters stating that his business, [REDACTED] was the first motorsports company in Brazil. The Petitioner, however, has not demonstrated how his founding of the business constituted contributions of major significance in the field of sports management. [REDACTED] provided that the company "quickly became synonymous with racing success and international prestige," but neither he nor the Petitioner explained the impact of this business in the field of sports management, or demonstrated the impact was at a level that supports a finding of "major significance in the field." Unsubstantiated statements are insufficient to establish a petitioner's eligibility. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

The evidence does show that the Petitioner has been a sports manager for successful professional racecar drivers. For example, [REDACTED] the president of [REDACTED] a motorsports series, stated that the Petitioner managed "the careers of many internationally renowned race car drivers in Brazil" and his "innovative techniques . . . dramatically improve[d] racecar drivers and team performance." [REDACTED] an executive vice president of [REDACTED] for [REDACTED] indicated that the Petitioner managed "Brazil's most known race car drivers in [REDACTED] and other racecar drivers. He said that the Petitioner used "sophisticated technology for the development of successful techniques for race car drivers to improve success." [REDACTED] a professional racecar driver, verified that the Petitioner served as his manager and "showed great preparation, innovative techniques, strength and knowledge in leading and improving [his] performance dramatically." [REDACTED] a professional racecar driver, provided that the Petitioner "is a very professional person and well known in the motorsport community." He noted that the Petitioner "has been very involved with racing" and has worked with "drivers," racing "teams, staff, organizations, and championships." None of the Petitioner's references, however, specified what "techniques" he had developed, or illustrated that his work influenced others in the field who were not his clients, customers or collaborators. *See Visinscaia*, 4 F. Supp. 3d at 134-35.

The reference letters, including those not specifically mentioned, confirmed that the Petitioner is a skillful and effective sports manager, whose abilities his clients and customers trust and value. The Petitioner's professional experience, however, is insufficient to show that he has made contributions of major significance in the field of sports management as a whole. There is no evidence in the record illustrating that others in the field of sports management have widely adopted or emulated his

Matter of G-R-

management method or techniques. Documentation of one's employment or professional achievements, without corroborating evidence showing significant impact or influence in the field, is not sufficient to meet the plain language of this criterion. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding our finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

Similarly, the record does not demonstrate that the Petitioner, whose business he indicated was once the only [REDACTED] accredited agency in Latin America, meets this criterion. On appeal, the Petitioner states that [REDACTED] accreditation "by itself is an original contribution of major significance in the field." He, however, does not explain the significance of being a [REDACTED] accredited agency or how this accreditation illustrated that his work had influenced the field of sports management as a whole, at a level consistent with a finding of major significance. As noted, to meet this criterion, the Petitioner must present proof that his contributions significantly advanced or impacted the field as a whole. *See* 8 C.F.R. § 204.5(h)(3)(v). Statements that are unsupported by the record do not establish a petitioner's eligibility. *See Soffici*, 22 I&N Dec. at 165. The Petitioner has not offered documentation from either [REDACTED] or other sources showing the significance of a [REDACTED] accreditation. In addition, he has not substantiated his statement that either [REDACTED] or [REDACTED] was once the only [REDACTED] accredited agency in Latin American.

Some of the Petitioner's references praised him in general terms, but did not explain how his professional activities resulted in significant impact in the field of sports management as a whole. For example, [REDACTED] stated that the Petitioner "aided in the advancement of the motorsports industry in Brazil" and "helped in shaping it to what it is today." [REDACTED] however, did not provide details on how the Petitioner has shaped or advanced the motorsports industry. He also did not demonstrate that the Petitioner's influence in the field reached the level of major significance. Instead, [REDACTED] and other references, including [REDACTED] a team co-owner of [REDACTED] and [REDACTED] a professional racecar driver, discussed the Petitioner's service to successful professional racecar drivers. As noted, to illustrate "contributions of major significance in the field," the Petitioner must offer substantiated impacts beyond his clients, customers, or collaborators. *See Visinscaia*, 4 F. Supp. 3d at 134-35. Here, the Petitioner has not presented the required evidence.

Authors of some reference letters credited the Petitioner for his effort to bring various events and celebrities to Brazil. On appeal, the Petitioner states that "[w]ith the opening of [REDACTED], [he] brought international competitions to Brazil." Neither the Petitioner nor any of his references, however, provided details on what the Petitioner did or explained his level of involvement in facilitating these events in Brazil. In addition, the Petitioner has not clarified how his association with these events has impacted the field of sports management as a whole. These professional activities may illustrate the Petitioner's organizational and promotional abilities, but they do not establish that he has made original contributions of major significance in the field.

The Petitioner has provided a number of published materials about his work as a sports manager. As discussed, he has not presented certificates confirming that the translators were competent to

(b)(6)

Matter of G-R-

translate, or that the English translations were full or complete. *See* 8 C.F.R. § 103.2(b)(3). These writings discussed the Petitioner's career, including the founding and operation of his businesses, and his management of professional racecar drivers. The articles demonstrated that the Petitioner is an able sports manager, who has received some attention from the field. None of these articles, however, established that the Petitioner has made significant contributions in the field of sports management as a whole. Specifically, the published materials did not explain how the Petitioner's achievements have impacted or influenced the field at a level consistent with "major significance."

Finally, the Petitioner has submitted multiple reference letters that contain language that was identical or virtually identical to the Petitioner's initial filing and response to the Director's request for evidence (RFE). The striking similarities in describing the Petitioner's achievements and abilities suggest that the language in the reference letters may not have originated from the respective authors. *Cf. Surinder Singh v. Board of Immigration Appeals*, 438 F.3d 145, 148 (2d Cir. 2006) (upholding an immigration judge's adverse credibility determination in asylum proceedings based in part on the similarity of some of the affidavits); *Mei Chai Ye v. United States Dep't of Justice*, 489 F.3d 517, 519 (2d Cir. 2007) (concluding that an immigration judge may reasonably infer that when an asylum applicant submits strikingly similar affidavits, the applicant is the common source).

The Petitioner offered a letter that included five paragraphs detailing his professional achievements. The same five paragraphs, with minor changes, appeared in letters signed by [redacted] and [redacted] an associate professor at the [redacted]. In addition, portions of the five paragraphs also appeared in other reference letters, including those from [redacted] the team director of [redacted] the president of [redacted] and [redacted] the president and chief executive officer of [redacted]. Some of these letters contain the same grammatically and typographic errors, including mistakenly referring to the Petitioner's business as [redacted] rather than [redacted]. The letters also contained oddly worded phrases, such as "with new customers from other categories of motorsport, was born the [redacted] and "[the Petitioner] followed the careers [sic] of [redacted] in the team and, years later, in [redacted] now [redacted]."

Other examples in the record show that the purported authors may not have written the reference letters. For example, letters from [redacted] and [redacted] shared virtually identical language. Letters from [redacted] the vice president of [redacted] the chairperson of the [redacted] and [redacted] the chief global events officer for [redacted] also shared three identical paragraphs that discussed the Petitioner's professional accomplishments.

The Petitioner points to reference letters as supporting evidence that he has made original contributions of major significance in the field. As discussed, the multiple identical statements in

² In his initial filing, the Petitioner offered an online printout about his company [redacted] which indicated that in 1992, he founded [redacted] not [redacted].

Matter of G-R-

the aforementioned letters suggest that their language was not written independently. While it is acknowledged that the authors have provided their support for this petition, it is unclear whether the letters reflect their independent observations and thus an informed and unbiased opinion of the Petitioner's work. In evaluating the evidence, the truth is to be determined not by the quantity of evidence alone but by its quality. *See Chawathe*, 25 I&N Dec. at 376. In addition, the record, including reference letters and other documentation, does not explicitly identify the Petitioner's contributions or provide specific examples of how those contributions rise to a level consistent with major significance in the field. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding our decision to give minimal weight to vague, solicited letters from colleagues or associates that do not provide details on contributions of major significance in the field). Statements that the record does not supported do not satisfy a 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); *Ayvr Associates, Inc. v. Meissner*, No. 95 Civ. 10729, 1997 WL 188942 at *1, 5 (S.D.N.Y. Apr. 18, 1997). Similarly, we need not accept primarily conclusory testimonials. *1756, Inc.*, 745 F. Supp. at 15. Based on the reasons stated above, the Petitioner does not meet the plain language of this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The Director found that the Petitioner met this criterion. The record supports this conclusion. The Petitioner presented evidence showing that he owns and serves as the team manager for [REDACTED]. The record thus shows that the Petitioner performs a leading or critical role for [REDACTED]. In addition, according to [REDACTED] the vice president of competition for [REDACTED] "is an internationally recognized and registered [REDACTED] series team that competes regularly in the [REDACTED]. In light of [REDACTED] letter, the Petitioner has shown that [REDACTED] is an organization that has a distinguished reputation. Accordingly, the Petitioner meets this criterion.

B. Summary

The Petitioner has worked as a sports manager for a number of years, and has managed several successful professional racecar drivers. The reference letters stated in general terms that he has been capable and skillful at his work. The record demonstrates the Petitioner's importance to his former and current clients, customers, associates and employers. As discussed, the record, however, does not establish that he meets at least three of the ten criteria listed under 8 C.F.R. § 204.5(h)(3)(i)-(x).

III. CONCLUSION

Had the Petitioner included the requisite material under at least three evidentiary categories, in accordance with the *Kazarian* opinion, our next step of analysis would be a final merits determination that considers all of the submissions in the context of whether the Beneficiary has achieved: 1) a "level of expertise indicating that [he] is one of that small percentage who have risen to the very top of the field of endeavor," and 2) "that the [Petitioner] has sustained national or

Matter of G-R-

international acclaim” and that his “achievements have been recognized in the field of expertise.” See 8 C.F.R. § 204.5(h)(2), (3); see also *Kazarian*, 596 F.3d at 1119-20. As the Petitioner has not done so, the proper conclusion is that he has not satisfied the antecedent regulatory requirement of presenting initial evidence set forth at 8 C.F.R. § 204.5(h)(3)(i)-(x). See *Kazarian*, 596 F.3d at 1122.

Nevertheless, although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the record in the aggregate does not support a finding that the Petitioner has achieved the level of expertise required for the classification. He has not demonstrated by a preponderance of the evidence that he is an individual of extraordinary ability in the field. A review of the submissions in the aggregate does not confirm that he has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The Petitioner, therefore, has not established his eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of G-R-*, ID# 17898 (AAO Aug. 26, 2016)