U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF J-A-S-

DATE: JULY 16, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a block chain solution architect, seeks classification as an individual of extraordinary ability in business. *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 Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only one of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief, arguing that he meets at least three of the ten criteria.

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

I. LAW

Section 203(b)(1)(A) 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 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 two options for satisfying this classification's initial evidence

requirements. First, a petitioner can demonstrate 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 documentation that meets at least three of the ten categories 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if it is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to a beneficiary's occupation.

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 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). This two-step analysis is consistent with our holding that the "truth is to be determined not by the quantity of evidence alone but by its quality," as well as the principle that we examine "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." *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

II. ANALYSIS

The Petitioner is a block chain solution architect who has been employed at [redacted] Because he 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). In denying the petition, the Director found that the Petitioner met only one of the initial evidentiary criteria, high salary under 8 C.F.R. § 204.5(h)(3)(ix). The record reflects that the Petitioner commanded a high salary compared to others in his field in the United Arab Emirates (UAE). Accordingly, we agree with the Director that the Petitioner satisfied the high salary criterion.

On appeal, the Petitioner maintains that he meets three additional criteria, discussed below. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the plain language requirements of at least three criteria.

> *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.* 8 C.F.R. § 204.5(h)(3)(iii).

The record reflects that the Petitioner submitted a screenshot from [redacted].com relating to the [redacted] Although the Petitioner provided a quote for article, it does not

constitute published material about him. Articles that are not about a petitioner do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin,* 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor). Moreover, the Petitioner contends that he "provided the ranking about [redacted] that this newspaper is among [the] top Newspaper[s] of [the] [M]iddle East." The record, however, does not contain the claimed evidence, and the Petitioner did not otherwise establish that [redacted]com is a professional or major trade publication or other major medium. For these reasons, the Petitioner did not demonstrate 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. 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner contends that he successfully invented [redacted] which he describes as a [redacted] In addition, he claims that his most important invention is [redacted] Moreover, the Petitioner argues that he has been invited to speak at conferences. In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions but 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 in the field.

As it relates to [redacted] the Petitioner submitted background information and contracts reflecting that three companies utilized the software. Although the contracts demonstrate that [redacted] has been implemented in relation to rental properties, the Petitioner did not establish that such usage is at a level considered to be of major significance.[1] For example, the Petitioner did not provide evidence showing the relative popularity of [redacted] among software products employed by vacation and rental companies.

Regarding [redacted] the Petitioner presented an executive summary and an unidentified website article discussing the purpose and background of the product. The documentation, however, does not indicate that [redacted] is considered by the field to be of major significance. Further, while the Petitioner provided three recommendation letters, they do not contain specific, detailed information establishing the impact of [redacted] on the field. For instance, [redacted] vice president of [redacted], stated that he invited the Petitioner to join his research group "because [he] noticed his significant contributions he made in block chain technology." [redacted]

[1] *See* USCIS Policy Memorandum PM 602-0005.1, *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* 8-9 (Dec. 22, 2010), https://www.uscis.gov/policymanual/HTML/PolicyManual.html; *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).

[redacted] however, did not identify the Petitioner's specific contributions and why he considered them to be significant. Repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *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.). Moreover, [redacted] professor at the [redacted] stated that he "noticed from reading the [redacted] website that [the Petitioner's] block chain [sic] career is really taking off." Rather than discussing how he personally knows that the Petitioner's [redacted] has greatly influenced the field, he based his opinion on the product's website. Furthermore, [redacted], advisor for [redacted] indicated that it is "better then [sic] all existing technologies," and the Petitioner's "groundbreaking research work is of vital importance our country's cyber security," but he does not explain why he believes [redacted] is better than the other products and how it has been of major significance in cyber security.

The letters considered above primarily contain attestations of the Petitioner's status in the field without providing specific examples of contributions that rise to a level consistent with major significance. 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. *See Kazarian*, 580 F.3d at 1036, *aff'd in part* 596 F.3d at 1115. 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).

Finally, the record contains prospective invitations for the Petitioner to attend the [redacted] in UAE and the [redacted] in Switzerland. Notwithstanding that the Petitioner did not establish that he attended the conferences, invitations to participate in conferences in-and-of-themselves do not show original contributions of major significance. Publications and presentations are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance." *See Kazarian v. USCIS,* 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115. Here, the Petitioner has not demonstrated that his attendance at conferences resulted in original contributions of major significance in the field, or that his invitations were reflective of such contributions. For these reasons, the Petitioner did not show that he satisfies this criterion.

> *Evidence 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).

The Petitioner argues that he performed in a leading role for [redacted] in Pakistan, [redacted] in several countries, [redacted] in UAE, [redacted] in Delaware, and [redacted] in New Jersey. For a leading role, the evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.[2]

[2] *See* USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

Although the Petitioner submitted business records for some of the aforementioned companies, they do not show his role with the organizations. For instance, the Petitioner submitted a screenshot from the Securities and Exchange Commission of Pakistan indicating registration, a letter from the assigning an employer identification number, and a document from the registering in Pakistan.

The record does contain evidence reflecting that the Petitioner is the owner of in New York and part owner of in the UAE. Thus, as owner of these companies, it appears that he performed in a leading role for them.[3] This criterion, however, also requires that the organizations or establishments must be recognized as having a distinguished reputation, which is marked by eminence, distinction, or excellence.[4] Here, the Petitioner does not claim that these organizations have distinguished reputations, and the record does not include evidence showing their eminent standings in the field. Accordingly, the Petitioner did not establish that he meets this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought. For the foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

Cite as *Matter of J-A-S-*, ID# 1504081 (AAO July 16, 2018)

[3] We note that the record does not specifically illustrate his duties or specific position within these companies.
[4] *Id* at 10-11.