



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

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

MATTER OF M-M-M-

DATE: JULY 16, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a barista, 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 Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three. In addition, the Director determined that the Petitioner did not establish that he intends to continue to work in the United States in his area of expertise.

On appeal, the Petitioner submits additional documentation and 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 barista who has participated in competitions in Iran and the United States. 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 two of the initial evidentiary criteria, awards under 8 C.F.R. § 204.5(h)(3)(i) and judging under 8 C.F.R. § 204.5(h)(3)(iv). The record reflects that the Petitioner won the [REDACTED]. In addition, he judged barista competitions, such as the [REDACTED] in [REDACTED] Iran. Accordingly, we agree with the Director that the Petitioner satisfied the awards and judging criteria.

On appeal, the Petitioner maintains that he meets one additional criterion, 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 Petitioner submits three screenshots from sprudge.com. The first screenshot, [REDACTED] is about the championship, mentioning the Petitioner only one time, and does not include the date of the article as required under the regulation at 8 C.F.R. § 204.5(h)(3)(iii). 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). The other two screenshots, [REDACTED] and [REDACTED] reflect published material about the Petitioner. However, while the Petitioner claims that [REDACTED] com “is an award-winning [REDACTED] coffee blog” and “is the flagship blog of the [REDACTED]” he did not support his assertions with documentation to demonstrate the website’s standing as a professional or major trade publication or other major medium.

In addition, the Petitioner offers three screenshots from [REDACTED]. Two of the screenshots, [REDACTED] and [REDACTED] mention the Petitioner one time as being a competitor but are articles about the championship. Moreover, they do not identify the authors of the material as required under 8 C.F.R. § 204.5(h)(3)(iii). The third screenshot, [REDACTED] is about the Petitioner; however, the screenshot does not contain the date and author of the material. Furthermore, while the Petitioner claims that [REDACTED] is “Iran’s first and foremost Farsi-language professional coffee website,” he did not supplement the record to support his assertions that the website is a professional or major trade publication or other major medium.

Moreover, the Petitioner submits a screenshot from ghahvehdaan.ir that reflects an interview with him, but it does not include the date and author of the screenshot, and he did not provide evidence showing that it is a professional or major trade publication or other major medium. The Petitioner also presents a screenshot from bourseandbazaar.com that does not reflect published material about him as it relates to Iran’s café culture. In addition, the Petitioner does not offer evidence establishing the website is a professional or major trade publication or other major medium.

Finally, the Petitioner provides two screenshots from [REDACTED] com that reflect published material about him. While the Petitioner claims that the website is “[o]ne of Iran’s premier coffee websites,” he did not offer supporting documentation to demonstrate that it is a professional or major trade publication or other major medium. For these reasons, the Petitioner did not demonstrate that he satisfies 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 1119-20.¹ 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 M-M-M-*, ID# 1521185 (AAO July 16, 2018)

¹ In addition, as the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we do not need to determine whether he intends to continue to work in the United States in his area of expertise. See section 203(b)(1)(A)(ii) of the Act and 8 C.F.R. § 204.5(h)(5).